

# **SENATE STATE AFFAIRS COMMITTEE**

## **ADMINISTRATIVE RULES REVIEW**

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# **STATE AFFAIRS COMMITTEE**

## **IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION**

### **31.11.01 - SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES REGULATED BY IDAHO PUBLIC UTILITIES COMMISSION**

**DOCKET NO. 31-1101-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the Public Utilities Commission and is now pending review by the 2008 State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Public Utilities Commission has adopted a pending rule. The action is authorized pursuant to Section 61-515, Idaho Code and 18 C.F.R. Section 260.9.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 5, 2007 Idaho Administrative Bulletin, Vol. 07-9, pages 228 through 232.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during fiscal year:

There is no fiscal impact on the state general fund resulting from this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

DATED this 5th day of October, 2007.

Jean D. Jewell  
Commission Secretary  
Idaho Public Utilities Commission  
PO Box 83720  
Boise, ID 83720-0074  
Tele: (208) 334-0338  
FAX: (208) 334-3762

## STATE AFFAIRS COMMITTEE

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**IDAHO PUBLIC UTILITIES COMMISSION**  
**Safety and Accident Reporting Rules**

**Docket No. 31-1101-0701**  
**PENDING RULE**

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### ***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 61-515, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the Commission's address below.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

The Commission's Safety and Accident Reporting Rules currently adopt by reference several national safety codes and federal safety regulations. In particular, Rules 202 and 203 currently adopt by incorporation the 2003 Editions of the International Fuel Gas Code and the International Mechanical Code, respectively. These codes are published by the International Code Council. The Commission is proposing to update its Rules 202 and 203 by adoption of the 2006 Editions. The major revisions included in the 2006 Edition of the Fuel Gas Code include: prohibited locations for appliances (Section 303.3); vent piping (Section 403.6.3); a requirement to check for leaks before operating piping system (Section 406.6.4); connecting gas supply to appliances in manufactured homes (Section 411); and standards for single-wall metal pipe (Section 503.10.14). The major revision to the 2006 Edition of the International Mechanical Code includes new standards regarding the location of exhaust outlets in Section 501.2.1.

The Commission is also proposing changes to Rules 301.03 and 302.04. These Safety and Accident Reporting Rules adopt by incorporation new reporting requirements regarding natural gas pipelines. In response to pipeline outages caused by hurricanes Katrina and Rita, the Federal Energy Regulatory Commission (FERC) adopted new safety regulations about the reporting of major service interruptions and damage to natural gas pipelines. The Commission proposes to amend its Safety and Accident Reporting Rules by incorporating the new accident reporting procedures found at 18 C.F.R. Section 260.9. Finally, the Commission is proposing to make several housekeeping corrections to its Safety and Accident Reporting Rules regarding mailing addresses, telephone numbers, e-mail addresses, and citations to other authorities.

**FEE SUMMARY:** There are no fees associated with this proposed rulemaking.

**FISCAL IMPACT:** There is no fiscal impact on the state general fund resulting from this rulemaking.



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**IDAHO PUBLIC UTILITIES COMMISSION**  
**Safety and Accident Reporting Rules**

**Docket No. 31-1101-0701**  
**PENDING RULE**

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**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this proposed rule adopts updated national safety codes necessary for the safety of utility employees and the public during the installation, operation, or maintenance of natural gas pipelines, fuel gas systems and natural gas-fired appliances.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before September 26, 2007. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 31st day of July, 2007.

### ***THE FOLLOWING IS THE TEXT OF THE PENDING RULE***

#### **005. DEFINITIONS (RULE 5).**

**01. Utilities.** The terms “electrical corporation,” “gas corporation,” “pipeline corporation,” “telephone corporation,” and “water corporation” have the meanings given to them by statute in Chapter 1, Title 61, Idaho Code, orders of the Idaho Public Utilities Commission, and decisions of the Supreme Court of Idaho construing these statutes. (7-1-93)( )

**02. Serious Damage.** Damage to natural gas facilities caused by a natural disaster or terrorism that results in a loss of or reduction in pipeline throughput or storage deliverability. ( )

**03. Serious Interruption of Service.** Interruptions of natural gas pipeline service to communities, major governmental installations, and large industrial plants outside of communities or any other interruption that is significant in the judgment of the natural gas pipeline. Interruptions of less than three (3) hours or planned maintenance outages need not be reported. ( )

### ***(BREAK IN CONTINUITY OF SECTIONS)***

#### **008. INCORPORATION BY REFERENCE - CODE OF FEDERAL REGULATIONS (RULE 8).**

Rules 101, 201, 202, ~~and~~ 203, and 302 incorporate by reference various national safety codes and

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### IDAHO PUBLIC UTILITIES COMMISSION Safety and Accident Reporting Rules

Docket No. 31-1101-0701  
PENDING RULE

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federal gas pipeline safety regulations. Each applicable rule identifies the issuing entity for each code or regulation and indicates where the incorporated materials may be obtained. Incorporated materials are also available for inspection and copying at the offices of the Idaho Public Utilities Commission and the Idaho State Law Library. (3-30-01)(\_\_\_\_)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 201. FEDERAL NATURAL GAS SAFETY REGULATIONS — ~~49 C.F.R. PARTS 191, 192, 193, 195 AND 199~~ (RULE 201).

The Commission ~~adopts~~ incorporates by reference Part 260.9, Title 18 (April 1, 2007) and Parts 191, 192, 193, 195, and 199, Title 49, the Code of Federal Regulations (October 1, 2005), except that federal accident reporting requirements contained in the rules adopted by reference in Rule 201 are replaced for state reporting purposes by orders of the Commission or rules of the Commission. These regulations are found in the Code of Federal Regulations, available from the, U.S. Government Printing Office, Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. The incorporated CFR Parts are also available in electronic format at [www.access.gpoaccess.gov/nara](http://www.access.gpoaccess.gov/nara). All gas and pipeline corporations subject to the Commission's jurisdiction are required to abide by applicable provisions of these federal regulations adopted by reference. (4-11-06)(\_\_\_\_)

#### 202. INTERNATIONAL FUEL GAS CODE (IFGA) (RULE 202).

01. ~~Adoption~~ Incorporation by Reference. The Commission ~~adopts~~ incorporates by reference the International Fuel Gas Code, 2003~~6~~ Edition ~~and the errata dated April 23, 2003~~. The International Fuel Gas Code is published by the International Code Council, ~~5203 Leesburg Pike, Suite 600, Falls Church, VA 22041~~ 300 New Jersey Avenue, NW, 6th Floor, Washington D.C. 20001-2070. The Code is available from the Code Council and may be ordered online at [www.iccsafe.org](http://www.iccsafe.org). Telephone orders may be placed by calling toll-free 800-~~284-4406~~ 786-4452. (3-20-04)(\_\_\_\_)

02. Utility Compliance. All gas corporations subject to the jurisdiction of this Commission are required to abide by applicable provisions of the International Fuel Gas Code and to connect for service and light only those installations that: (3-20-04)

- a. Have been inspected and approved by authorized agencies; or (4-1-98)
- b. When inspecting agencies do not exist, to require their customers to abide by applicable provisions of the International Fuel Gas Code as a condition of receiving service or continuing to receive service. (3-20-04)

#### 203. INTERNATIONAL MECHANICAL CODE (IMC) (RULE 203).

01. ~~Adoption~~ Incorporation by Reference. The Commission ~~adopts~~ incorporates by reference those portions of the 2003~~6~~ International Mechanical Code explicitly referring to gas or gas-burning appliances. The International Mechanical Code is published by the International

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### IDAHO PUBLIC UTILITIES COMMISSION Safety and Accident Reporting Rules

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Code Council, ~~5203 Leesburg Pike, Suite 600, Falls Church, VA 22041~~ 300 New Jersey Avenue, NW, 6th Floor, Washington D.C. 20001-2070 and may be ordered by calling toll-free 800-~~284-4406~~ 786-4452 or online at [www.iccsafe.org](http://www.iccsafe.org). (3-20-04)( )

**02. Utility Compliance.** Gas corporations subject to the jurisdiction of this Commission are required to abide by applicable provisions of the International Mechanical Code and to connect for service and light only those installations that: (3-20-04)

a. Have been inspected and approved by authorized agencies; or (4-1-98)

b. When inspecting agencies do not exist, to require their customers to abide by applicable provisions of the International Mechanical Code as a condition of receiving service or continuing to receive service. (3-20-04)

### (BREAK IN CONTINUITY OF SECTIONS)

### RULES 300 THROUGH 400 -- REPORTING OF ACCIDENTS AND SERVICE INTERRUPTIONS

#### **301. IMMEDIATE REPORTING OF FATALITIES AND CERTAIN ACCIDENTS AND MAJOR NATURAL GAS INTERRUPTIONS (RULE 301).**

**01. Fatality and Accident Reporting–~~Required~~.** Whenever any employee of an electrical corporation, gas corporation, pipeline corporation, telephone corporation, or water corporation or any member of the public dies or requires in-patient hospitalization as a result of contact with or proximity to utility operating property, the utility must notify the Commission by telephone of the fatality or hospitalization no later than the first business day following discovery of the fatality or reporting of the hospitalization, except as provided in Subsection 31.11.01.301.02. Reports should be made to the Commission Secretary at (208) 334-0338. (4-1-98)( )

**02. Operating Property -- Automobile Accident Exception.** As used in this rule, operating property means electric plant as defined in Section 61-118, Idaho Code, gas plant as defined in Section 61-116, Idaho Code, pipelines as defined in Section 61-114, Idaho Code, telephone line as defined in Section 61-120, Idaho Code, or water systems as defined in Section 61-124, Idaho Code. This rule does not apply to fatalities arising out of automobile accidents, even if the automobile later comes into contact with utility plant. Office buildings or portions of office buildings not associated with the physical delivery of utility services or commodities are not considered operating property. (4-1-98)

**03. Major Service Interruptions or Damage to Natural Gas Pipelines.** The Commission incorporates by reference Section 260.9, Title 18, the Code of Federal Regulations (April 1, 2007). Every natural gas corporation must report serious damage to natural gas facilities and serious interruptions of service to the Commission. Natural gas corporations should also

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### IDAHO PUBLIC UTILITIES COMMISSION Safety and Accident Reporting Rules

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PENDING RULE

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report other serious damage not caused by natural disaster or terrorism if such damages create the potential for serious delivery problems on its own system or the pipeline grid. ( )

### **302. WRITTEN REPORTING OF ACCIDENTS AND NATURAL GAS INTERRUPTIONS (RULE 302).**

**01. Reporting Required.** In addition to any telephone reporting required under Rule 301, a written report ~~of~~ shall be submitted for: ( )

**a.** ~~e~~Every accident involving an employee of the utility or member of the public that results in a fatality or in-patient hospitalization; ~~or~~ ( )

**b.** ~~a~~Any other accident the utility finds significant; or ( )

**c.** Serious damage or service interruption of natural gas pipelines. ( )

**02. Submitting the Written Report.** All written reports must be submitted to the Commission within twenty one (21) days after the fatality or injury is discovered. Reports regarding serious damage or service interruption shall be submitted at the earliest feasible time. Reports should be mailed to: ~~(7-1-93)~~( )

Commission Secretary

Idaho Public Utilities Commission

PO Box 83720

Boise, ID 83720-0074

Street Address for Express Mail:

472 W. Washington St.

Boise, ID 83702-5983

Copies of such reports may also be provided by facsimile at (208) 334-3762 or by electronic mail to secretary@puc.state.id.us. (5-3-03)

**023. Contents of Written Accident Report.** There is no standard form for written reports prescribed by this rule. Gas companies may file copies of reports submitted to federal regulators under 49 C.F.R. Part 191. All reports submitted must contain the following information: ~~(7-1-93)~~( )

**a.** Name of person(s) involved in the accident; (7-1-93)

**b.** Status of persons involved in the accident (e.g., employees, children, contractors, etc.); (7-1-93)

**c.** Time of day, day of the week and month, and location of the accident or discovery of the accident; ~~and~~ ~~(5-3-03)~~( )

**d.** Description of the accident and events leading up to the accident; and ~~(7-1-93)~~( )

**e.** The company name, contact person, e-mail address and direct telephone number.

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**IDAHO PUBLIC UTILITIES COMMISSION**  
**Safety and Accident Reporting Rules**

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**PENDING RULE**

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( )

**04. Contents of Written Report Involving Damage or Interruption to Natural Gas Facilities.** All written reports shall provide the following information: ( )

**a.** The location and cause of the service interruption or damage to natural gas pipeline or storage facilities; ( )

**b.** The nature of the serious damage to pipeline or storage facility; ( )

**c.** The specific identification and location of any facilities damaged; ( )

**d.** The time the service interruption or damage to facilities occurred; ( )

**e.** The customers affected by the interruption of service or damage to facilities; ( )

**f.** A brief description of emergency actions taken to maintain service; ( )

**g.** An estimate of the time (if available) when pipeline throughput or storage deliverables are expected to be restored; and ( )

**h.** The company name, contact person, e-mail address and direct telephone number. ( )

## **STATE AFFAIRS COMMITTEE**

### **IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION**

#### **31.12.01 - SYSTEMS OF ACCOUNTS FOR PUBLIC UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION**

**DOCKET NO. 31-1201-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the Public Utilities Commission and is now pending review by the 2008 State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Public Utilities Commission has adopted a pending rule. The action is authorized pursuant to Section 61-524, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**There were no comments filed in response to the proposed rule. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 226 through 235.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

DATED this 22nd day of October, 2007.

Jean D. Jewell  
Commission Secretary  
Idaho Public Utilities Commission  
PO Box 83720, Boise, ID 83720-0074  
Tele: (208) 334-0338 / FAX: (208) 334-3762

***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

## **STATE AFFAIRS COMMITTEE**

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**IDAHO PUBLIC UTILITIES COMMISSION**

**Systems of Accounts for Public Utilities Regulated by IPUC**

**Docket No. 31-1201-0701**

**PENDING RULE**

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**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 61-524, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the Commission's address below.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

The Commission's Uniform Systems of Accounts (USOA) Rules currently adopt through incorporation by reference the accounting regulations promulgated by the Federal Communications Commission and the Federal Energy Regulatory Commission relating to telephone, natural gas and electric utilities. The federal accounting regulations are contained in the Code of Federal Regulations (CFR). The Commission is proposing to update its USOA Rules by adoption of the 2007 editions of the CFR. The Commission is also proposing to make several housekeeping corrections to mailing addresses, telephone numbers, e-mail addresses and citations to other authorities.

**FEE SUMMARY:** There are no fees associated with this proposed rulemaking. N/A

**FISCAL IMPACT:** There is no fiscal impact on the state general fund resulting from this rulemaking. N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this proposed rule adopts updated CFR parts mandated by federal agencies.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before October 24, 2007. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 20th day of August, 2007.

***THE FOLLOWING IS THE TEXT OF THE PENDING RULE***

## STATE AFFAIRS COMMITTEE

**IDAHO PUBLIC UTILITIES COMMISSION**  
**Systems of Accounts for Public Utilities Regulated by IPUC**

**Docket No. 31-1201-0701**  
**PENDING RULE**

### **008. INCORPORATION BY REFERENCE (RULE 8).**

Rule 101, 102, 103 and 104 incorporate by reference various federal accounting regulations and accounting standards issued by the National Association of Regulatory Utility Commissioners. Each applicable rule identifies the issuing entity for each regulation or standard and indicates where the incorporated materials may be obtained. Incorporated materials are also available for inspection and copying at the offices of the Idaho Public Utilities Commission and the Idaho State Law Library. ( )

### **0089. -- 100. (RESERVED).**

## **RULES 101 THROUGH 200 -- UNIFORM SYSTEMS OF ACCOUNTS**

### **101. UNIFORM SYSTEM OF ACCOUNTS FOR ELECTRIC UTILITIES (RULE 101).**

The Commission adopts by reference the Uniform System of Accounts for Major (previously Class A and B) Electric Utilities contained in the Code of Federal Regulations, Title 18, Part 101 (April 1, 2007), available from the ~~Publications Division~~, U.S. Government Printing Office, ~~Washington, D.C. 20402~~ Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. The incorporated material is also available in electronic format at [www.gpoaccess.gov/nara](http://www.gpoaccess.gov/nara). ~~These regulations, which were most recently revised in the Federal Register of October 3, 1985, 50 Fed.Reg. 40358, can be found in the annual volumes of the Code of Federal Regulations from 1986 through 1992.~~ For payment by credit card, call toll-free 866-512-1800. The accounts adopted by reference are adopted for convenience of establishing uniform systems of accounts only for accounting and reporting and do not bind the Commission in any manner to any particular ratemaking treatment of items in those accounts. All ~~Class A and B~~ Major electrical corporations subject to the regulatory authority of the Idaho Public Utilities Commission are required to maintain their regulatory books according to the system of accounts adopted by this rule. (7-1-93)( )

### **102. UNIFORM SYSTEM OF ACCOUNTS FOR GAS UTILITIES (RULE 102).**

The Commission adopts by reference the Uniform System of Accounts for Major (previously Class A and B) Natural Gas Companies contained in the Code of Federal Regulations, Title 18, Part 201 (April 1, 2007), available from the ~~Publications Division~~, U.S. Government Printing Office, ~~Washington, D.C. 20402~~ Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. The incorporated material is also available in electronic format at [www.gpoaccess.gov/nara](http://www.gpoaccess.gov/nara). ~~These regulations, which were adopted in the Federal Register of June 21, 1960, 25 Fed.Reg. 5616, can be found in the annual volumes of the Code of Federal Regulations from 1961 through 1992.~~ For payment by credit card, call toll-free 866-512-1800. The accounts adopted by reference are adopted for convenience of establishing uniform systems of accounts only for accounting and reporting and do not bind the Commission in any manner to any particular ratemaking treatment of items in those accounts. All ~~Class A and B~~ Major gas corporations subject to the regulatory authority of the Idaho Public Utilities Commission are required to maintain their regulatory books according to the system of accounts adopted by this rule. (7-1-93)( )

### **103. UNIFORM SYSTEM OF ACCOUNTS FOR TELEPHONE UTILITIES (RULE 103).**

The Commission adopts by reference the Uniform System of Accounts for Class A and B



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### IDAHO PUBLIC UTILITIES COMMISSION

### Systems of Accounts for Public Utilities Regulated by IPUC

Docket No. 31-1201-0701

PENDING RULE

Telephone Utilities contained in the Code of Federal Regulations, Title 47, Part 32 (October 1, 2007), available from the ~~Publications Division~~, U.S. Government Printing Office, ~~Washington, D.C. 20402~~ Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. The incorporated material is also available in electronic format at [www.gpoaccess.gov/nara](http://www.gpoaccess.gov/nara). ~~These regulations, the majority of which were revised in the Federal Register of December 2, 1986, 51 Fed.Reg. 43499, and which were last amended in the Federal Register of December 7, 1988, 53 Fed.Reg. 49322, can be found in the annual volumes of the Code of Federal Regulations from 1988 through 1992.~~ For payment by credit card, call toll-free 866-512-1800. The accounts adopted by reference are adopted for convenience of establishing uniform systems of accounts only and do not bind the Commission in any manner to any particular ratemaking treatment of items in those accounts. All Class A and B telephone corporations subject to the regulatory authority of the Idaho Public Utilities Commission are required to maintain their regulatory books according to the system of accounts adopted by this rule. (7-1-93)( )

#### 104. UNIFORM SYSTEM OF ACCOUNTS FOR WATER UTILITIES (RULE 104).

The Commission adopts by reference the Uniform System of Accounts for Class A and B Water Utilities, 1996 ~~version~~ Edition, published by the National Association of Regulatory Utility Commissioners (NARUC), available from NARUC at ~~1201 Constitution Avenue N.W., Suite 1102, P.O. Box 684~~ 1101 Vermont Avenue, NW, Suite 200, Washington, D.C. ~~20044-0684~~ 20005. The Uniform System of Accounts may be purchased from NARUC by calling 202-898-2280 or ordered online at [www.naruc.org/storeindex.cfm](http://www.naruc.org/storeindex.cfm). The accounts adopted by reference are adopted for the convenience of establishing uniform systems of accounts only and do not bind the Commission in any manner to any particular ratemaking treatment of items in these accounts. All Class A and B water corporations subject to the regulatory authority of the Idaho Public Utilities Commission are required to maintain their regulatory books according to the system of accounts adopted by this rule. (7-1-98)( )

## **STATE AFFAIRS COMMITTEE**

### **IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION**

#### **31.21.01 - CUSTOMER RELATIONS RULES FOR GAS, ELECTRIC AND WATER PUBLIC UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION (THE UTILITY CUSTOMER RELATIONS RULES)**

**DOCKET NO. 31-2101-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the Public Utilities Commission and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Public Utilities Commission has adopted a pending rule. The action is authorized pursuant to Sections 61-503 and 61-507, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The Commission is adopting the proposed text to Rules 105, 302, and 403 as pending rules. The text of pending Rules 203, 204, 300, 310, 311 and 600 has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this Bulletin. The complete text of all the proposed rules was published in the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 229 through 235.

Based upon comments received, the Commission has clarified the proposed changes to Rules 203.03 and 204.02.c. to reflect that in some instances a customer underbilled for utility service may be rebilled for a period not to exceed three (3) years. The Commission also clarifies the proposed change to Rule 204.01 based upon filed comments. The Commission also amends the proposed changes to Rules 300.04 and 600.05 to reflect that customers must affirmatively “opt-in” to receiving electronic utility notifications via e-mail. These changes allow customers to choose electronic billing but still receive important service notices in writing. Based upon comments received, the Commission decided to restructure and clarify the proposed changes to Rules 310 and 311. Parts of proposed Rule 311.01 are moved to 310.01. Finally, the Commission deletes the words “denied or” from Rule 311 as suggested in comments.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during fiscal year: N/A

## STATE AFFAIRS COMMITTEE

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**IDAHO PUBLIC UTILITIES COMMISSION**  
**The Utility Customer Relations Rules****Docket No. 31-2101-0701**  
**PENDING RULE**

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**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Beverly Barker, Consumer Assistance Supervisor, at (208) 334-0302 or Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

DATED this 2nd day of November, 2007.

Jean D. Jewell  
Commission Secretary  
Idaho Public Utilities Commission  
472 W. Washington St. (83702-5983)  
PO Box 83720, Boise, ID 83720-0074  
Tele: (208) 334-0338 / FAX: (208) 334-3762

### ***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has initiated proposed rulemaking procedures. This action is authorized pursuant to Sections 61-503 and 61-507, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the Commission's address below.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

The Commission is proposing several changes to clarify and refine the scope of some of its Utility Customer Relations Rules. The Commission proposes to clarify Rule 105 that customers and applicants may pay service deposits in two equal installments. Second, the Commission proposes to amend its Rules 203 and 204 to clarify that customer refunds will be credited to future bills unless the customer requests a refund. The Commission also proposes to limit the time period a utility may rebill an undercharged customer to six (6) months unless a reasonable person should have known of the inaccurate billing which resulted in the undercharge. Utilities must implement procedures designed to identify customers who have been inaccurately billed. Third, the Commission proposes to change Rules 300 and 600 by defining the term "written notice" to include e-mail when the customer has elected to receive electronic billing. Fourth, the Commission proposes to clarify and restructure its Rule 311 dealing with restrictions when service may be denied or terminated and proposes to generally prohibit service termination on Fridays with some exceptions. The Commission is also proposing to clarify that a utility is not required to provide service to an applicant who is not connected at the time of application. Finally, Rules 302 and 310 would provide that a utility is not required to connect service for a

## STATE AFFAIRS COMMITTEE

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### IDAHO PUBLIC UTILITIES COMMISSION The Utility Customer Relations Rules

Docket No. 31-2101-0701  
PENDING RULE

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customer or applicant who owes money on an existing account or a previous account if the unpaid bill is for service provided within the last four (4) years.

**FEE SUMMARY:** There are no fees associated with this proposed rulemaking. N/A

**FISCAL IMPACT:** There is no fiscal impact on the state general fund resulting from this rulemaking. N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, formal negotiated rulemaking was not conducted because two (2) utility workshops were held in June and July to address the general concepts supporting the possible revisions to these rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Beverly Barker, Consumer Assistance Supervisor, at (208) 334-0302 or Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before October 24, 2007. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED at Boise, Idaho this 24th day of August, 2007.

### ***THE FOLLOWING IS THE TEXT OF THE PENDING RULE***

#### **105. AMOUNT OF DEPOSIT (RULE 105).**

**01. Amount of Deposit.** A deposit allowed pursuant to Rule 101 as a condition of service shall not exceed one-sixth (1/6) the amount of reasonably estimated billing for one (1) year at rates then in effect. ~~For customers who use~~ Where gas service is used for space heating purposes only, the deposit shall not exceed the total of the two (2) highest months' bills during the previous twelve (12) consecutive months, adjusted for currently effective rates. Deposit amounts shall be based upon the use of service at the premises during the prior year or upon the type and size of ~~customer's~~ equipment using the utility's service. ~~(5-3-03)(\_\_\_\_)~~

**02. Installment Payments of Deposit.** The utility shall ~~provide~~ advise the applicant ~~an opportunity to pay or customer that~~ the deposit may be paid in two (2) installments. ~~The applicant shall be allowed to pay o~~ One-half (1/2) of the deposit amount at the time of application, shall be due immediately with the remaining installment payable in one (1) month. ~~(7-1-93)(\_\_\_\_)~~

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PENDING RULE

### (BREAK IN CONTINUITY OF SECTIONS)

#### 203. BILLING UNDER INAPPROPRIATE TARIFF SCHEDULE (RULE 203).

**01. Rebilling Required.** If a customer was billed under an inappropriate tariff schedule, the utility shall recalculate the customer's past billings and correctly calculate future billings based on the appropriate tariff schedule. A customer has been billed under an inappropriate tariff schedule if: (7-1-93)

**a.** The customer was billed under a tariff schedule for which the customer was not eligible; or (7-1-93)

**b.** The customer was billed under a tariff schedule based upon information supplied by the customer but the customer's actual demand is insufficient to meet the minimum eligibility requirements for the selected tariff schedule; or ( )

**bc.** The customer, who is eligible for billing under more than one (1) tariff schedule, was billed under a schedule contrary to the customer's election, or the election was based on erroneous information provided by the utility. (7-1-93)

**02. Exceptions.** The utility shall not be required to adjust billings when it has acted in good faith based upon available information or when the customer was given written notice of options under the tariff schedules and did not make a timely election to exercise available options. (7-1-93)

**03. Rebilling Time Period.** When the customer has been overcharged, the period for which rebilling under this rule is allowed shall be that not exceed three (3) years as provided by Section 61-642, Idaho Code, (three (3) years). When the customer has been undercharged, the period for rebilling shall be limited to six (6) months unless a reasonable person should have known of the inappropriate billing, in which case the rebilling period may be extended for a period not to exceed three (3) years. Utilities shall implement procedures designed to monitor and identify customers who may be billed under an inappropriate tariff schedule. (7-1-93)( )

**04. Refunds and Additional Payments.** The utility shall promptly prepare a corrected billing indicating the refund due the customer or the amount due the utility. ( )

**a.** A customer who has been underbilled charged shall be given the opportunity to make payment arrangements under Rule 313 on the amount due. At the customer's option, the term of the payment arrangement may extend for the length of time that the underbilling charge accrued. ( )

**b.** The utility shall promptly calculate refund amounts overpaid by the customer ~~unless the customer consents to a~~ and issue a credit on the customer's next bill. Any remaining credit balance may be credited against future bills, except overbillings not exceeding fifteen dollars (\$15) may be credited to future bills unless the customer, after notice from the utility, requests a refund. The utility shall advise the customer of the option to have any remaining credit balance refunded to the customer. (7-1-93)( )

## STATE AFFAIRS COMMITTEE

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### IDAHO PUBLIC UTILITIES COMMISSION The Utility Customer Relations Rules

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Docket No. 31-2101-0701  
PENDING RULE

#### 204. INACCURATELY BILLED SERVICE UNDER CORRECT TARIFF SCHEDULE - - FAILURE TO BILL FOR SERVICE (RULE 204).

**01. Errors in Preparation -- Malfunctions -- Failure to Bill.** Whenever the billing for utility service was not accurately determined ~~because~~ for reasons such as a meter malfunctioned or failed, bills were estimated, metering equipment was incorrectly installed or programmed, or bills were inaccurately prepared, the utility shall prepare a corrected billing. If the utility has failed to bill a customer for service, the utility shall prepare a bill for the period during which no bill was provided. (7-1-93)( )

**02. ~~Corrections~~ Rebilling Time Period.** ( )

**a.** If the time when the malfunction or error began or the time when the utility began to fail to bill for service cannot be reasonably determined to have occurred within a specific billing period, the corrected billings shall not exceed the most recent six (6) months before the discovery of the malfunction, ~~or~~ error, or failure to bill. ( )

**b.** If the time when the malfunction, ~~or~~ error, or failure to bill began can be reasonably determined and the utility determines the customer was overcharged, the corrected billings shall go back to that time, but not to exceed three (3) years from the time the error or malfunction occurred as provided by Section 61-642, Idaho Code, ~~(three (3) years)~~. (7-1-93)( )

**c.** If the time when the malfunction or error can be reasonably determined and the utility determines the customer was undercharged, the utility may rebill for a period of six (6) months unless a reasonable person should have known of the inaccurate billing, in which case the rebilling may be extended for a period not to exceed three (3) years. Utilities shall implement procedures designed to monitor and identify customers who have not been billed or who have been inaccurately billed. ( )

**03. ~~Refunds and Additional Payments~~.** The utility shall promptly prepare a corrected billing indicating the refund due to the customer ~~or the amount due the utility. A customer who has been underbilled or who has not been billed shall be given the opportunity to make payment arrangements under Rule 313 on the amount due. At the customer's option, the term of the payment arrangement may extend for the length of time that the underbilling accrued or the customer was not billed. The utility shall promptly refund amounts overpaid by the customer unless the customer consents to a~~ and issue a credit on the customer's next bill. Any remaining credit balance shall be credited against future bills, ~~except overbillings not exceeding fifteen dollars (\$15) may be credited to future bills~~ unless the customer, after notice from the utility, requests a refund. The utility shall advise the customer of the option to have any remaining credit balance refunded to the customer. (7-1-93)( )

**04. Additional Payments.** The utility shall promptly prepare a corrected billing for a customer who has been undercharged indicating the amount owed to the utility. An unbilled or undercharged customer shall be given the opportunity to make payment arrangements under Rule 313 on the amount due. At the customer's option, the term of the payment arrangement may extend for the length of time that the underbilling accrued or the customer was not billed. ( )

## STATE AFFAIRS COMMITTEE

### (BREAK IN CONTINUITY OF SECTIONS)

#### 300. FURTHER DEFINITIONS (RULE 300).

As used in Rules 301 through 313: (7-1-93)

**01. Applicant.** “Applicant” is restricted from its general definition to refer only to applicants for residential or small commercial service, unless further restricted by the rule. (7-1-93)

**02. Customer.** “Customer” is restricted from its general definition to refer only to residential or small commercial customers, unless further restricted by the rule. (7-1-93)

**03. Non-Utility Service.** “Non-utility service” means: (7-1-93)

**a.** Service for which the Commission does not regulate rates, charges, or availability of service; (7-1-93)

**b.** Service for which no rate or charge is contained in the utility’s tariffs; or (7-1-93)

**c.** Merchandise or equipment or charges for merchandise or equipment not required as a condition of receiving utility service. (7-1-93)

**04. Written Notice.** “Written notice” of the utility’s intent to deny or terminate service may be mailed or otherwise delivered to the applicant, resident, occupant, or customer. Written notice may be provided by electronic mail (i.e., e-mail) if the customer is billed electronically and separately consents in writing to “opt-in” to receiving electronic notification. ( )

### (BREAK IN CONTINUITY OF SECTIONS)

#### 302. GROUNDS FOR DENIAL OR TERMINATION OF SERVICE WITH PRIOR NOTICE (RULE 302).

A utility may deny or terminate service to a customer or applicant without the customer’s or applicant’s permission, but only after adequate notice has been given in accordance with these rules, for one (1) or more of the following reasons: (7-1-93)

**01. Failure to Pay.** With respect to undisputed past due bills the customer or applicant: (3-20-04)

**a.** Failed to pay; (3-20-04)

## STATE AFFAIRS COMMITTEE

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### IDAHO PUBLIC UTILITIES COMMISSION The Utility Customer Relations Rules

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b. Paid with a dishonored check; or (3-20-04)

c. Made an electronic payment drawn on an account with insufficient funds.  
(3-20-04)

**02. Failure to Make Security Deposit.** The customer or applicant failed to make a security deposit or make an installment payment on a deposit where it is required. (3-30-01)

**03. Failure to Abide by Terms of Payment Arrangement.** The customer or applicant failed to abide by the terms of a payment arrangement. (3-30-01)

**04. Identity Misrepresentation.** The customer or applicant misrepresented the customer's or applicant's identity for the purpose of obtaining utility service. (7-1-93)

**05. Denial of Access to Meter.** The customer or applicant denied or willfully prevented the utility's access to the meter. (7-1-93)

**06. Willful Waste of Service.** The utility determines as prescribed by relevant State or other applicable standards that the customer is willfully wasting service through improper equipment or otherwise. (7-1-93)

**07. Service to Minors.** The applicant or customer is a minor not competent to contract as described in Sections 29-101 and 32-101, Idaho Code. (3-20-04)

**08. Previous Account Balance Owing.** Nothing in this rule requires the utility to connect service for a customer or applicant who owes money on an existing account or from a previous account if the unpaid bill is for service provided within the past four (4) years.  
(3-20-04)(\_\_\_\_)

### (BREAK IN CONTINUITY OF SECTIONS)

### 310. INSUFFICIENT GROUNDS FOR TERMINATION OR DENIAL OF SERVICE (RULE 310).

**01. Termination of Service.** No customer shall be given notice of termination of service nor shall the customer's service be terminated if: (7-1-93)(\_\_\_\_)

~~**01a. Unpaid Bill Less Than Fifty Dollars.**~~ The customer's unpaid bill ~~cited as grounds for termination~~ totals less than fifty dollars (\$50) or two (2) months' charges for service, whichever is less. (7-1-93)(\_\_\_\_)

~~**02b. Unpaid Bill Not Customer's.**~~ The unpaid bill cited as grounds for termination is for utility service to any other customer (unless that customer has a legal obligation to pay the other customer's bill) or for any other class of service. (7-1-93)(\_\_\_\_)



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~~03c. Non-Utility Service or Goods.~~ An The unpaid bill results from the purchase of non-utility goods or services. (7-1-93)( )

d. The unpaid bill is for service provided four (4) or more years ago unless the customer has promised in writing to pay or made a payment on the bill within the last four (4) years. ( )

e. The customer fails to pay amounts in dispute while a complaint filed pursuant to Rule 402 is pending before this Commission. ( )

f. A case placing at issue payment of disputed amounts for utility service is pending before a court in the state of Idaho unless authorized by court order. ( )

02. Denial of Service. No applicant shall be given notice of denial nor shall the applicant be denied service if any of the criteria listed in Subsection 310.01.b. through 310.01.f. apply to the unpaid bill cited as grounds for denial of service. ( )

### 311. RESTRICTIONS ON TERMINATION OF SERVICE TIMES WHEN SERVICE MAY BE TERMINATED -- OPPORTUNITY TO AVOID TERMINATION OF SERVICE (RULE 311).

01. When Termination ~~Not Allowed~~ of Service Is Prohibited. Except as authorized by Rule 303 or this rule, Service provided to a customer, applicant, resident or occupant shall not be terminated; ( )

a. ~~On any Friday, after 12 noon, or on Saturday, Sunday, legal holidays recognized by the state of Idaho, or on any day immediately preceding any legal holiday;~~ or ( )

b. ~~At any time when the utility is not open for business, except as authorized by Rules 303.01 and 303.02;~~ ( )

02. Times When Service May Be Terminated. Service may be terminated: ( )

a. At any time when there is a dangerous condition pursuant to Rule 303.01 or the utility is ordered to do so pursuant to Rule 303.02; ( )

b. Between the hours of 8 a.m. and 5 p.m., Monday through Thursday, for any reason authorized by Rules 302 and 303; ( )

c. Between the hours of 8 a.m. and 5 p.m. on Friday for illegal use of service pursuant to Rule 303.03 or if the premises are unoccupied and service has been abandoned; or ( )

d. ~~Between the hours of 45 p.m. and 9 p.m., Monday through Thursday, if the utility is unable to gain access to the customer's meter during normal business hours or for illegal use of service pursuant to Rule 303.03. Unless otherwise authorized by this rule, Rules 303.01 and 303.02, or the affected customer in writing, service may be terminated only between the hours of 8:00 a.m. and 4:00 p.m.~~ (4-11-06)( )

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**023. Personnel to Authorize Reconnection.** Each utility shall have personnel available ~~after the time of termination~~ who are authorized to reconnect service if the conditions cited as grounds for termination are corrected to the utility's satisfaction. Service shall be reconnected as soon as possible, but no later than twenty-four (24) hours after the utility's conditions are satisfied and ~~the customer requests~~ reconnection is requested. (5-3-03)( )

**034. Opportunity to Prevent Termination of Service.** Immediately preceding termination of service, the employee designated to terminate service shall identify himself or herself to the customer or other responsible adult upon the premises and shall announce the purpose of the employee's presence. This employee shall have in his or her possession the past due account record of the customer and shall request any available verification that the outstanding bills are satisfied or currently in dispute before this Commission. Upon presentation of evidence that outstanding bills are satisfied or currently in dispute before this Commission, service shall not be terminated. The employee shall be authorized to accept full payment, or, at the discretion of the utility, partial payment, and in such case shall not terminate service. Nothing in this rule prevents a utility from proceeding with termination of service if the customer or other responsible adult is not on the premises ~~at the time of termination~~. (5-3-03)( )

**045. Notice of Procedure for Reconnecting Service.** The utility employee ~~of the utility~~ designated to terminate service shall give to the customer or leave in a conspicuous location at the affected service address, ~~affected~~ a notice showing: the time of and grounds for termination, steps to be taken to secure reconnection, and the telephone numbers of utility personnel or other authorized representatives who are available to authorize reconnection. (5-3-03)( )

**05. ~~No Termination While Complaint Pending.~~** ~~Except as authorized by order of the Commission or of the Judiciary, service shall not be terminated for failure to pay amounts in dispute while a complaint filed pursuant to Rule 402 is pending before this Commission or while a case placing at issue payment for utility service is pending before a court in the state of Idaho.~~ (7-1-93)

**06. Applicant Without Service - Customer Requested Termination.** Nothing in this rule prohibits a utility from terminating service at any time pursuant to a customer's request. ( )

### (BREAK IN CONTINUITY OF SECTIONS)

#### 403. RECORD OF COMPLAINTS (RULE 403).

**01. Recordkeeping.** Each utility must keep a written record of complaints and requests for conferences pursuant to Rules 401 and 402. These records must be retained for a minimum of one (1) year at the office of the utility where the complaints were received or conferences held. These written records are to be readily available upon request by the concerned customer, the customer's agent possessing written authorization, or the Commission. The records must show whether the customer or applicant was advised as required by Rule 401.032 that the

## STATE AFFAIRS COMMITTEE

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### IDAHO PUBLIC UTILITIES COMMISSION The Utility Customer Relations Rules

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PENDING RULE

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customer or applicant may request the Commission to review the utility's proposed disposition of the complaint. ~~(7-1-93)~~( )

**02. Reporting.** Each utility must, at the Commission's request, submit a report to the Commission that states and classifies the number of complaints made to the utility pursuant to Rules 401 and 402, the general nature of their subject matter, how received (in person, by letter, etc.), and whether a Commission review was conducted. (7-1-93)

### (BREAK IN CONTINUITY OF SECTIONS)

#### **600. DEFINITIONS (RULE 600).**

As used in Rules 601 through 605. (7-1-93)

**01. Advance Payment.** "Advance payment" means a payment made prior to receiving service that will be credited to the customer's account at a later date. (7-1-93)

**02. Applicant.** "Applicant" means an applicant for industrial, large commercial or irrigation service. (7-1-93)

**03. Customer.** "Customer" means an industrial, large commercial or irrigation customer, unless further restricted by the rule. The Commission will maintain on file a list of which customer classes of a given utility are industrial, large commercial, and irrigation. (7-1-93)

**04. Deposit.** "Deposit" means any payment held as security for future payment or performance that is reimbursable. (7-1-93)

**05. Written Notice.** "Written notice" of the utility's intent to deny or terminate service may be mailed or otherwise delivered to the applicant, occupant or customer. Written notice may be provided by electronic mail (i.e., e-mail) if the customer is billed electronically and *separately* consents *in writing* to "*opt-in*" to receiving electronic notification. ( )

## **STATE AFFAIRS COMMITTEE**

### **IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION**

#### **31.71.02 - RAILROAD ACCIDENT REPORTING RULES**

##### **DOCKET NO. 31-7102-0701 (CHAPTER REPEAL)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the Public Utilities Commission and is now pending review by the 2008 State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Public Utilities Commission has adopted a pending rule. The action is authorized pursuant to Section 61-515, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**There were no comments filed in response to the proposed rule. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 236.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

DATED this 22nd day of October, 2007.

Jean D. Jewell  
Commission Secretary  
Idaho Public Utilities Commission  
PO Box 83720, Boise, ID 83720-0074  
Tele: (208) 334-0338 / FAX: (208) 334-3762

***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

## STATE AFFAIRS COMMITTEE

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### **PUBLIC UTILITIES COMMISSION Railroad Accident Reporting Rules**

**Docket No. 31-7102-0701  
PENDING RULE**

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**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, notice is hereby given that the Idaho Public Utilities Commission proposes to repeal its Railroad Accident Reporting Rules. This action is authorized pursuant to Section 61-515, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007. The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the Commission's address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**IDAPA 31.71.02.101 of the Railroad Accident Reporting Rules adopts 47 C.F.R. Part 225.1 which requires all railroads to file a copy of an accident or incident report with the Commission when such report is required to be filed with the Federal Railroad Administration. The Commission is proposing to move the text of Rule 101 to the Railroad Safety/Sanitation Rules, IDAPA 31.71.03. This transfer is proposed in Docket No. 31-7103-0701. After the transfer of this one rule to the Railroad Safety/Sanitation Rules, the Commission proposes to repeal its Railroad Accident Reporting Rules at 31.71.02. Consolidating these rules will streamline the Commission's railroad rules.**

**FEE SUMMARY:** There are no fees associated with this proposed rulemaking. N/A

**FISCAL IMPACT:** There is no fiscal impact on the state general fund resulting from this rulemaking. N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the nature of the proposed action.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the rescission of these rules, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before October 24, 2007. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 20th day of August, 2007.

***IDAPA 31.71.02 IS BEING REPEALED IN ITS ENTIRETY.***

## **STATE AFFAIRS COMMITTEE**

### **IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION**

#### **31.71.03 - RAILROAD SAFETY/SANITATION RULES**

**DOCKET NO. 31-7103-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the Public Utilities Commission and is now pending review by the 2008 State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Public Utilities Commission has adopted a pending rule. The action is authorized pursuant to Sections 61-515 and 61-515A, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**There were no comments filed in response to the proposed rule. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 237 through 239.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

DATED this 22nd day of October, 2007.

Jean D. Jewell  
Commission Secretary  
Idaho Public Utilities Commission  
PO Box 83720, Boise, ID 83720-0074  
Tele: (208) 334-0338 / FAX: (208) 334-3762

***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

## STATE AFFAIRS COMMITTEE

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### IDAHO PUBLIC UTILITIES COMMISSION Railroad Safety/Sanitation Rules

Docket No. 31-7103-0701  
PENDING RULE

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**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has initiated proposed rulemaking procedures. This action is authorized pursuant to Sections 61-515 and 61-515A, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the Commission's address below.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

The Commission's Railroad Safety/Sanitation Rules currently adopt by reference federal hazardous material safety regulations. In particular, Rule 103.02 adopts the federal hazardous material regulations found in the Code of Federal Regulations (CFR) dated October 1, 2005. The Commission is proposing to update Rule 103.02 by adoption of the October 1, 2007 edition of the CFR. Major revisions included in the 2007 edition of the CFR include: Requiring "NON-ODORIZED" marking on certain packages including tank cars containing un-odorized liquid petroleum gas (Part 172); revising the transport requirements for infectious substances and regulated medical waste consistent with international standards (Parts 172, 173); and adopting new Internet options for registration and assessment of hazardous materials (Part 107).

The Commission is also proposing to add Rule 104 which was previously promulgated at IDAPA 31.71.02.101. Moving the accident reporting rule to this Chapter will allow the Commission to consolidate and streamline its railroad rules. By adding Rule 104, the Commission is also proposing to amend the title and scope of these rules and make other housekeeping changes (references to citations, websites, and public records compliance).

**FEE SUMMARY:** There are no fees associated with this proposed rulemaking. N/A

**FISCAL IMPACT:** There is no fiscal impact on the state general fund resulting from this rulemaking. N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this proposed rule adopts updated CFR parts necessary for the safe transportation of hazardous materials by rail and accident reporting required by federal regulations.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before

## STATE AFFAIRS COMMITTEE

**IDAHO PUBLIC UTILITIES COMMISSION**  
**Railroad Safety/Sanitation Rules**

**Docket No. 31-7103-0701**  
**PENDING RULE**

October 24, 2007.

Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 21st day of August, 2007.

### ***THE FOLLOWING IS THE TEXT OF THE PENDING RULE***

#### **31.71.03 - RAILROAD SAFETY/~~SANITATION~~ AND ACCIDENT REPORTING RULES**

##### **001. TITLE AND SCOPE (RULE 1).**

**01. Title.** The title of these rules is “Railroad Safety/~~Sanitation~~ and Accident Reporting Rules.” ( )

**02. Scope.** The scope of these rules ~~is that they~~ set safety, ~~and~~ sanitation, and accident reporting standards that railroads must meet while operating in Idaho. (7-1-93)( )

### ***(BREAK IN CONTINUITY OF SECTIONS)***

##### **004. PUBLIC RECORDS ACT COMPLIANCE (RULE 4).**

~~All correspondence with~~ Most documents regarding ~~to~~ these rules ~~is a~~ are public records. Accident investigative reports by the Commission or the Commission Staff may be investigatory records exempt from disclosure under Section 9-340B(1), Idaho Code. Accident reports required by these rules and the results of further investigations by the Commission are prohibited from admission into evidence in any action for damages based on or arising out of the loss of life or injury to the person or property pursuant to Section 61-517, Idaho Code. (7-1-93)( )

### ***(BREAK IN CONTINUITY OF SECTIONS)***

##### **006. CITATION (RULE 6).**

The official citation of these rules is IDAPA 31.71.03.000 et seq. For example, this rule is cited as IDAPA 31.71.03.006. In documents submitted to the Commission or issued by the Commission, these rules may be cited by their short title of Railroad Safety/~~Sanitation~~ and Accident Reporting Rules (~~RRSSR~~) and the parenthetical rule number. For example, this rule may be cited as ~~RRSSR~~



## STATE AFFAIRS COMMITTEE

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### IDAHO PUBLIC UTILITIES COMMISSION Railroad Safety/Sanitation Rules

Docket No. 31-7103-0701  
PENDING RULE

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6. (7-1-93)( )

#### 007. EFFECTIVE DATE -- HISTORY OF RULES (RULE 7).

The Commission adopted predecessors to these rules dating back at least to 1977. Prior to 1993, they were ~~most recently~~ codified at IDAPA 31.H and IDAPA 31.L. They were readopted and reformatted by rulemaking decision in Docket Number 31-7103-9301, effective July 1, 1993. The history of rulemaking proceedings preceding the initiation of the publishing of the Idaho Administrative Bulletin and the Idaho Administrative Code is available from the Commission Secretary. (7-1-93)( )

#### 008. INCORPORATION BY REFERENCE - CODE OF FEDERAL REGULATIONS (RULE 008).

The Code of Federal Regulations (CFR) is referred to in Rules 103 and 104. The annual volumes of the CFR may be obtained from the Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. The full text of the CFR is also available in electronic format at ~~www.access.gpo.gov/nara~~ <http://origin.www.gpoaccess.gov/nara/>. The incorporated CFR Parts are also available for inspection and copying at the office of the Idaho Public Utilities Commission and the Idaho State Law Library. Whenever a federal regulation is adopted by reference in these rules, subsequent annual recom compilations are also adopted by reference, but subsequent amendments to the CFR are not adopted by reference. (3-30-01)( )

### (BREAK IN CONTINUITY OF SECTIONS)

### RULES 101 THROUGH 200 -- SAFETY, AND SANITATION CONDITIONS, AND ACCIDENT REPORTING FOR RAILROADS

### (BREAK IN CONTINUITY OF SECTIONS)

#### 103. TRANSPORTATION OF HAZARDOUS MATERIAL BY RAIL (RULE 103).

01. **Hazardous Material Defined.** "Hazardous material" means a substance or material which has been determined by the United States Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated by the Secretary of Transportation. The term includes hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials as defined in 49 C.F.R. Section 171.8, materials designated as hazardous under the provisions of 49 C.F.R. Section 172.101, and materials that meet the defining criteria for hazardous classes and divisions in 49 C.F.R. Part 173. (3-30-01)

02. **Adoption of Federal Safety Regulations.** The Commission hereby adopts by reference 49 C.F.R. Parts 107, 171, 172, 173, 174, 178, 179, and 180 (October 1, 2005). All customers offering hazardous materials for shipment by rail and all railroads operating in Idaho

## STATE AFFAIRS COMMITTEE

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### IDAHO PUBLIC UTILITIES COMMISSION Railroad Safety/Sanitation Rules

Docket No. 31-7103-0701  
PENDING RULE

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that transport hazardous materials listed in, defined by, or regulated by the adopted federal safety regulations must comply with 49 C.F.R. Parts 107, 171, 172, 173, 174, 178, 179 and 180.

(~~4-11-06~~)( )

**03. Recognition of Federal Exemptions.** Whenever a railroad or shipper has applied to a federal agency and has been granted an exemption from the transportation or packaging requirements of the federal safety regulations adopted in Subsection 103.02, the federal exemption will also be recognized under these rules. The Commission shall not administer a program to duplicate consideration or approval of federal exemptions on a state level. (3-30-01)

#### **104. REPORTING OF RAILROAD ACCIDENTS (RULE 104).**

The Commission incorporates by reference 49 C.F.R. Part 225 (October 1, 2007). Pursuant to 49 C.F.R. 225.1, all railroads that are required to file a copy of any accident/incident report with the Federal Railroad Administration shall also file a copy of such report with the Commission Secretary for accidents or incidents occurring in Idaho. Copies of accident or incident reports shall be mailed to: Commission Secretary, Idaho Public Utilities Commission, PO Box 83720, Boise, Idaho 83720-0074 ((208) 334-0338). Copies of such reports may also be provided by facsimile at (208) 334-3762 or by electronic mail to [secretary@puc.idaho.gov](mailto:secretary@puc.idaho.gov). ( )

**1045. -- 999. (RESERVED).**

## **STATE AFFAIRS COMMITTEE**

### **IDAPA 38 - DEPARTMENT OF ADMINISTRATION**

#### **38.01.01 - OTHER CONTESTED CASE OR ADVERSARY HEARINGS BEFORE THE DEPARTMENT OF ADMINISTRATION**

**DOCKET NO. 38-0101-0701 (CHAPTER REPEAL)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-5221(1) and 67-5226, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**There are no changes to the pending rule. These rules were promulgated in 1992 under Idaho Code § 67-5202(1), which was subsequently amended, repealing that rulemaking authority. No statutory authority for these rules currently exists. Consequently, this rule is being repealed in its entirety.**

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, page 393.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfoy, Deputy Attorney General, Department of Administration, at (208) 332-1832.

DATED this 17th day of October, 2007.

Joanna L. Guilfoy  
Deputy Attorney General  
Department of Administration  
650 W. State Street

P.O. Box 83720, Boise, Idaho 83720-0003  
Telephone: (208) 332-1832

***THE FOLLOWING NOTICE PUBLISHED WITH THE  
TEMPORARY AND PROPOSED RULE***

## STATE AFFAIRS COMMITTEE

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**DEPARTMENT OF ADMINISTRATION**  
**Other Contested Case or Adversary Hearings**

**Docket No. 38-0101-0701**  
**PENDING RULE**

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**EFFECTIVE DATE:** The effective date of the temporary rule is September 1, 2007.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007. The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These rules were promulgated in 1992 under Section 67-5202(1), Idaho Code, which was subsequently amended, repealing that rulemaking authority. No statutory authority for these rules currently exists. Consequently, this rule is being repealed.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To confer a benefit.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: **There is no fee.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: **There is no fiscal impact.**

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the substance and nature of the rules does not warrant negotiated rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Joanna L. Guilfooy, Deputy Attorney General, Department of Administration, at (208) 332-1832. Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this August 12th, 2007.

***IDAPA 38.01.01 IS BEING REPEALED IN ITS ENTIRETY.***

## **STATE AFFAIRS COMMITTEE**

### **IDAPA 38 - DEPARTMENT OF ADMINISTRATION**

#### **38.01.02 - RULES FOR HEARING PROCEDURE FOR DIVISION OF PURCHASING SPECIFICATION CHALLENGES AND RULES FOR NON-ADVERSARY HEARINGS**

**DOCKET NO. 38-0102-0701 (CHAPTER REPEAL)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-5717(11) and 67-5732, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**There are no changes to the pending rule. The existing rule is redundant to the current statute (Section 67-5733, Idaho Code) and where not redundant, does not add substance or value and can cause confusion in the purchasing appeals' process. Consequently, this rule is being repealed in its entirety. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, page 394.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, Deputy Attorney General, Department of Administration, at (208) 332-1832.

DATED this 17th day of October, 2007.

Joanna L. Guilfooy, Deputy Attorney General  
Department of Administration  
650 W. State Street

P.O. Box 83720, Boise, Idaho 83720-0003  
Telephone: (208) 332-1832

***THE FOLLOWING NOTICE PUBLISHED WITH THE  
TEMPORARY AND PROPOSED RULE***

## STATE AFFAIRS COMMITTEE

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**DEPARTMENT OF ADMINISTRATION**

**Specification Challenges & Rules for Non-Adversary Hearings**

**Docket No. 38-0102-0701**

**PENDING RULE**

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**EFFECTIVE DATE:** The effective date of the temporary rule is September 1, 2007.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-5717(11) and 67-5732, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007. The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking: **Rules are redundant to existing statute (Section 67-5733, IC) and where not redundant, do not add substance or value and can cause confusion in the purchasing appeals' process. Consequently, this rule is being repealed.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: **To confer a benefit.**

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: **There is no fee.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: **There is no fiscal impact.**

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the substance and nature of the rules does not warrant negotiated rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Joanna L. Guilfooy, Deputy Attorney General, Department of Administration, at (208) 332-1832.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this August 12th, 2007.

***IDAPA 38.01.02 IS BEING REPEALED IN ITS ENTIRETY.***

## **STATE AFFAIRS COMMITTEE**

### **IDAPA 38 - DEPARTMENT OF ADMINISTRATION**

#### **38.01.03 - RULES GOVERNING PRACTICE AND PROCEDURE FOR PUBLIC HEARINGS BEFORE THE DEPARTMENT OF ADMINISTRATION**

**DOCKET NO. 38-0103-0701 (CHAPTER REPEAL)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-5221(1) and 67-5226, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change: **There are no changes to the pending rule. These rules were promulgated in 1992 under Section 67-5202(1), Idaho Code, which was subsequently amended, repealing that rulemaking authority. No statutory authority for these rules currently exists. In addition, the rules address procedures for public meetings and add nothing that is not addressed in the Open Meetings Law (Idaho Code § 67-2341, et seq.) Consequently, we are repealing this chapter in its entirety. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, page 395.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, Deputy Attorney General, Department of Administration, at (208) 332-1832.

DATED this 17th day of October, 2007.

Joanna L. Guilfooy, Deputy Attorney General  
Department of Administration  
650 W. State Street

P.O. Box 83720, Boise, Idaho 83720-0003  
Telephone: (208) 332-1832

***THE FOLLOWING NOTICE PUBLISHED WITH THE  
TEMPORARY AND PROPOSED RULE***

## STATE AFFAIRS COMMITTEE

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**DEPARTMENT OF ADMINISTRATION**  
**Practice and Procedure Rules for Public Hearings**

**Docket No. 38-0103-0701**  
**PENDING RULE**

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**EFFECTIVE DATE:** The effective date of the temporary rule is September 1, 2007.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007. The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking: **These rules were promulgated in 1992 under Section 67-5202(1), Idaho Code, which was subsequently amended, repealing that rulemaking authority. No statutory authority for these rules currently exist. In addition, the rules address procedures for public meetings and add nothing that is not addressed in the Open Meetings Law (Idaho Code § 67-2341, et seq.) Consequently, these rules are being repealed.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: **It confers a benefit.**

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: **There is no fee.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: **There is no fiscal impact.**

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the substance and nature of the rules does not warrant negotiated rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Joanna L. Guilfooy, Deputy Attorney General, Department of Administration, at (208) 332-1832. Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this August 28th, 2007.

***IDAPA 38.01.03 IS BEING REPEALED IN ITS ENTIRETY.***



## **STATE AFFAIRS COMMITTEE**

### **IDAPA 38 - DEPARTMENT OF ADMINISTRATION**

#### **38.05.01 - RULES OF THE DIVISION OF PURCHASING**

**DOCKET NO. 38-0501-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-5717(11) and 67-5732, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule. The proposed rule changes are to designate reference rules applicable to certain appeals; increase small purchase exemption limit and professional services exemption limit, under which agencies can purchase without formal bid process, from \$50,000 to \$75,000; clarify professional services exemption is for non-renewable contracts; and delete electronic signature rules.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 396 through 401.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, Deputy Attorney General, Department of Administration, at (208) 332-1832.

DATED this 17th day of October, 2007.

Joanna L. Guilfooy, Deputy Attorney General  
Department of Administration  
650 W. State Street  
P.O. Box 83720, Boise, Idaho 83720-0003  
Telephone: (208) 332-1832

## STATE AFFAIRS COMMITTEE

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**DEPARTMENT OF ADMINISTRATION**  
**Rules of the Division of Purchasing**

**Docket No. 38-0501-0701**  
**PENDING RULE**

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### ***THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE***

**EFFECTIVE DATE:** The effective date of the temporary rule is September 1, 2007.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-5717(11) and 67-5732, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Reference rules applicable to certain appeals; increase small purchase exemption limit and professional services exemption limit, under which agencies can purchase without formal bid process, from \$50,000 to \$75,000; clarify professional services exemption is for non-renewable contracts; and delete electronic signature rules.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To confer a benefit.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: There is no fee.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no fiscal impact.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the substance and nature of the rules does not warrant negotiated rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Joanna L. Guilfooy, Deputy Attorney General, Department of Administration, at (208)

## STATE AFFAIRS COMMITTEE

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**DEPARTMENT OF ADMINISTRATION**  
**Rules of the Division of Purchasing**

**Docket No. 38-0501-0701**  
**PENDING RULE**

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332-1832.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this August 12th, 2007.

### ***THE FOLLOWING IS THE TEXT OF THE PENDING RULE***

#### **003. ADMINISTRATIVE APPEALS.**

Administrative appeals are governed by Section 67-5733, Idaho Code, and, for contested cases, IDAPA 38.05.02, "Rules Governing Contested Case Hearings on Bid Appeals at the Division of Purchasing." (3-15-02)(\_\_\_\_)

### ***(BREAK IN CONTINUITY OF SECTIONS)***

#### **041. PROCEDURE FOLLOWED IN THE SOLICITATION OF BIDS AND PROPOSALS.**

Except as otherwise provided, the acquisition of property exceeding ~~fifty~~ seventy-five thousand dollars (\$~~50~~75,000) (the sealed procedure limit) shall be by the formal sealed procedure. (3-15-02)(\_\_\_\_)

### ***(BREAK IN CONTINUITY OF SECTIONS)***

#### **044. SMALL PURCHASES.**

**01. General.** Small purchases are those purchases or procurements expected to cost ~~fifty~~ seventy-five thousand dollars (\$~~50~~75,000) or less. Costs are determined based on the following: (3-15-02)(\_\_\_\_)

- a. One-time purchases of property; or (3-15-02)
- b. Total cost of a contract for services, including renewal or extension periods. (3-15-02)

**02. Splitting of Requirements.** Acquisition requirements shall not be artificially divided to avoid bid statutes, rules or policies. (3-15-02)

## STATE AFFAIRS COMMITTEE

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### DEPARTMENT OF ADMINISTRATION Rules of the Division of Purchasing

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Docket No. 38-0501-0701  
PENDING RULE

**03. Procedure.** Unless impractical or impossible and documented in the file, these small purchase procedures require the acquisition to be publicly posted. Except as otherwise provided in this rule, no less than three (3) vendors having a significant Idaho presence as defined by Section 67-2349, Idaho Code, shall be solicited to submit quotations. Award shall be made to the responsible and responsive bidder offering the lowest acceptable quotation. The purchasing file will be fully documented for unacceptable quotations. Should it be impractical or impossible to solicit three (3) vendors, the file shall be fully documented and every effort should still be made to obtain the most favorable terms, conditions and price possible. (3-15-02)

**04. Form of Request for Quotation.** Unless otherwise prohibited by the buyer, the request for quotation and the quotation may be written, oral, electronic, telephonic or facsimile. (3-15-02)

**05. Quoting Time.** The quoting time shall be determined by the buyer and should provide sufficient time for the vendor to prepare and return a quotation. The amount of time shall take into consideration such factors as complexity, urgency, availability of property and the number and location of vendors. (3-15-02)

**06. Statewide Contracts.** Property available under single agency or statewide contracts shall be purchased under such contracts and not as a small purchase under this rule unless otherwise authorized by the administrator. (3-15-02)

**07. Professional, Consultant and Information Technology Services.** Professional, consultant and information technology services acquired under this rule, where the services are reasonably expected to cost ~~fifty~~ seventy-five thousand dollars (\$~~50~~75,000) or less through a fixed price/not to exceed price contract for a non-renewable term not to exceed ~~ing~~ one (1) year, may be acquired as each agency sees fit, in accordance with good business practice and in the best interest of the state. (3-15-02)( )

**08. Purchases in Amounts Less Than Five Thousand Dollars.** If the property to be acquired is expected to cost less than five thousand dollars (\$5,000), it may be acquired as each agency sees fit, in accordance with good business practice and in the best interest of the state. (3-15-02)

**112. -- ~~120~~999.(RESERVED).**

**~~121. DEFINITIONS.~~**

~~For purposes of IDAPA 38.05.01, Sections 121 through 127, and unless the context expressly indicates otherwise, the following terms shall have the definitions ascribed to them:~~ (3-15-02)

~~**01. Electronically Signed Communication.** A message that has been processed by a computer in such a manner that ties the message to the individual that signed the message.~~ (3-15-02)

~~**02. Message.** An electronic representation of information intended to serve as a written communication with the division.~~ (3-15-02)

# STATE AFFAIRS COMMITTEE

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## DEPARTMENT OF ADMINISTRATION Rules of the Division of Purchasing

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~~03. **Person.** A human being or any organization capable of signing a document, either legally or as a matter of fact. (3-15-02)~~

~~04. **Signer.** The person who signs an electronically signed communication with the use of an acceptable technology to uniquely link the message with the person sending it. (3-15-02)~~

~~05. **Technology.** The computer hardware or software-based method or process used to create electronic signatures. (3-15-02)~~

### ~~122. **ELECTRONIC SIGNATURES MUST BE CREATED BY AN ACCEPTABLE TECHNOLOGY.**~~

~~For an electronic signature to be valid for use by the division, it must be created by a technology that is accepted for use by the division. (3-15-02)~~

### ~~123. **CRITERIA TO DETERMINE IF AN ELECTRONIC SIGNATURE TECHNOLOGY WILL BE ACCEPTED FOR USE BY THE DIVISION.**~~

~~01. **Criteria of Section 67-2354, Idaho Code.** For a technology to be accepted for use by the division, it must be capable of creating signatures that conform to requirements set forth in Section 67-2354, Idaho Code: (3-15-02)~~

~~a. It is unique to the person using it; (3-15-02)~~

~~b. It is capable of verification; and (3-15-02)~~

~~c. It conforms to IDAPA 38.05.01, Sections 121 through 123. (3-15-02)~~

~~02. **Additional Criteria.** To be accepted, a technology must also be capable of creating a signature that: (3-15-02)~~

~~a. Is under the sole control of the person using it; (3-15-02)~~

~~b. Is linked to the data in such a manner that if the data are changed, the electronic signature is invalidated; and (3-15-02)~~

~~c. Meets ISO X.509 standards. (3-15-02)~~

### ~~124. **PUBLIC KEY CRYPTOGRAPHY.**~~

~~The technology known as Public Key Cryptography is an accepted technology for use by the division, provided that the electronic signature is created consistent with the provisions in this Section. (3-15-02)~~

~~01. **Definitions.** For purposes of this Section 124, and unless the context expressly indicates otherwise, the following terms shall have the definitions ascribed to them. (3-15-02)~~

~~a. **Approved Certification Authority.** The certification authority authorized and accepted by the state to issue certificates for electronic signature transactions involving the state. (3-15-02)~~

## STATE AFFAIRS COMMITTEE

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### DEPARTMENT OF ADMINISTRATION Rules of the Division of Purchasing

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- ~~**b.** Asymmetric Cryptosystem. A computer algorithm or series of algorithms that utilize(s) two (2) different keys with the following characteristics: (3-15-02)~~
- ~~i. One (1) key signs a given message; (3-15-02)~~
  - ~~ii. One (1) key verifies a given message; and (3-15-02)~~
  - ~~iii. The keys have the property that, knowing one (1) key, it is computationally infeasible to discover the other key. (3-15-02)~~
- ~~**c.** Certificate. A computer-based record that: (3-15-02)~~
- ~~i. Identifies the certification authority issuing it; (3-15-02)~~
  - ~~ii. Names or identifies its subscriber; (3-15-02)~~
  - ~~iii. Contains the subscriber's public key; (3-15-02)~~
  - ~~iv. Is electronically signed by the certification authority issuing or amending it; and (3-15-02)~~
  - ~~v. Conforms to widely-used industry standards. (3-15-02)~~
- ~~**d.** Certification Authority. A person or entity that issues a certificate, or in the case of certain certification processes, certifies amendments to an existing certificate. (3-15-02)~~
- ~~**e.** Key Pair. A private key and its corresponding public key in an asymmetric cryptosystem. The keys have the property that the public key can verify an electronic signature that the private key creates. (3-15-02)~~
- ~~**f.** Private Key. The key of a key pair used to create an electronic signature. (3-15-02)~~
- ~~**g.** Proof of Identification. The document or documents presented to a certification authority to establish the identity of a subscriber. (3-15-02)~~
- ~~**h.** Public Key. The key of a key pair used to verify an electronic signature. (3-15-02)~~
- ~~**i.** Subscriber. A person who: (3-15-02)~~
- ~~i. Is the subject listed in a certificate; (3-15-02)~~
  - ~~ii. Accepts the certificate; and (3-15-02)~~
  - ~~iii. Holds a private key that corresponds to a public key listed in that certificate. (3-15-02)~~
- ~~**02.** *Electronic Signature to Be "Unique."* Section 67-2354, Idaho Code, requires that~~

# STATE AFFAIRS COMMITTEE

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## DEPARTMENT OF ADMINISTRATION Rules of the Division of Purchasing

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~~an electronic signature be “unique to the person using it.” A public key based electronic signature may be considered unique to the person using it, if:~~ (3-15-02)

~~a. The private key used to create the signature on the document is known only to the signer;~~ (3-15-02)

~~b. The electronic signature is created when a person runs a message through a one-way function, creating a message digest, then encrypting the resulting message digest using an asymmetrical cryptosystem and the signer’s private key;~~ (3-15-02)

~~c. Although not all electronically signed communications will require the signer to obtain a certificate, the signer is capable of being issued a certificate to certify that he or she controls the key pair used to create the signature; and~~ (3-15-02)

~~d. It is computationally infeasible to derive the private key from knowledge of the public key.~~ (3-15-02)

~~03. **Signature Is Capable of Verification.** Section 67-2354, Idaho Code, requires that an electronic signature be “capable of verification.” A public key based electronic signature is capable of verification if:~~ (3-15-02)

~~a. The acceptor of the electronically signed document can verify the document was electronically signed by using the signer’s public key;~~ (3-15-02)

~~b. If a certificate is a required component of a transaction, that the certificate was valid; and~~ (3-15-02)

~~c. If a certificate is a required component of a transaction, the issuing certification authority identifies which, if any, form(s) of proof of identification it required of the signer prior to issuing the certificate.~~ (3-15-02)

~~04. **Control of Electronic Signature.** Subsection 123.02.a. requires that the electronic signature remain “under the sole control of the person using it.” Whether a signature is accompanied by a certificate or not, the person who holds the key pair, or the subscriber identified in the certificate, assumes a duty to retain control of the private key and prevent its disclosure to any person not authorized to create the subscriber’s electronic signature.~~ (3-15-02)

~~05. **Electronic Signature Linked to the Message.** The electronic signature must be linked to the message of the document in such a way that if the data are changed, the electronic signature is invalidated.~~ (3-15-02)

~~06. **Electronic Signature Must Meet ISO X.509 Standards.** The electronic signature must meet ISO X.509 standards.~~ (3-15-02)

~~07. **Approved Certification Authority.** The division shall only accept certificates from an approved certification authority.~~ (3-15-02)

# STATE AFFAIRS COMMITTEE

DEPARTMENT OF ADMINISTRATION  
Rules of the Division of Purchasing

Docket No. 38-0501-0701  
PENDING RULE

**~~125. CRITERIA FOR THE DIVISION TO USE IN ACCEPTING ELECTRONIC SIGNATURES.~~**

~~01. Level of Security Used to Identify the Signer.~~ Prior to accepting an electronic signature, the division shall ensure that the level of security used to identify the signer of a document is sufficient for the transaction being conducted. (3-15-02)

~~02. Level of Security Used to Transmit the Signature.~~ Prior to accepting an electronic signature, the division shall ensure that the level of security used to transmit the signature is sufficient for the transaction being conducted. (3-15-02)

~~03. Certificate Format Used by the Signer.~~ If a certificate is a required component of an electronic signature transaction, the division shall ensure that the certificate format used by the signer is sufficient for the security and interoperability needs of the division. (3-15-02)

**~~126. RETENTION OF CERTIFICATES.~~**

~~All electronically signed messages received by the division in accordance with this rule, as well as any information resources necessary to permit access to the message and to verify the electronic signature, shall be retained by the division as necessary to comply with applicable law pertaining to records retention requirements for that message.~~ (3-15-02)

**~~127. ELECTRONIC SIGNATURE REPUDIATION.~~**

~~It is the responsibility of the rightful holder of the private key to maintain the private key's security. Repudiation of an electronically signed and transmitted message may only occur by the determination of a court of competent jurisdiction that the private key of the rightful holder was compromised through no fault of the rightful holder and without knowledge on the part of the rightful holder. It is the legal prerequisite for a claim of repudiation that the repudiator have filed a notice of revocation with the certification authority prior to making the claim of repudiation.~~ (3-15-02)

**~~128.—999. (RESERVED).~~**



## **STATE AFFAIRS COMMITTEE**

### **IDAPA 38 - DEPARTMENT OF ADMINISTRATION**

#### **38.05.02 - RULES GOVERNING CONTESTED CASE HEARINGS ON BID APPEALS AT THE DIVISION OF PURCHASING**

**DOCKET NO. 38-0502-0701 (NEW CHAPTER)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-5717(11) and 67-5732, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**There are no changes to the pending rule. The proposed rule changes are to promulgate new rules on procedures applying to bid appeals where there is a contested case hearing.**

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 402 through 405.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no negative fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, Deputy Attorney General, Department of Administration, at (208) 332-1832.

DATED this 17th day of October, 2007.

Joanna L. Guilfooy  
Deputy Attorney General  
Department of Administration  
650 W. State Street  
P.O. Box 83720  
Boise, Idaho 83720-0003  
Telephone: (208) 332-1832

## **STATE AFFAIRS COMMITTEE**

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**DEPARTMENT OF ADMINISTRATION**  
**Contested Case Hearings on Bid Appeals**

**Docket No. 38-0502-0701**  
**PENDING RULE (New Chapter)**

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### ***THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE***

**EFFECTIVE DATE:** The effective date of the temporary rule is September 1, 2007.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-5717(11) and 67-5732, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Promulgate new rules on procedures applying to bid appeals where there is a contested case hearing.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To confer a benefit.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

**There is no fee being charged or imposed through this rulemaking.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

**There is no negative fiscal impact to the general fund.**

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the substance and nature of the rules does not warrant negotiated rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed

## **STATE AFFAIRS COMMITTEE**

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**DEPARTMENT OF ADMINISTRATION  
Contested Case Hearings on Bid Appeals**

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PENDING RULE (New Chapter)**

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rule, contact Joanna L. Guilfooy, Deputy Attorney General, Department of Administration, at (208) 332-1832.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this August 12th, 2007.

### ***THE FOLLOWING IS THE TEXT OF THE PENDING RULE***

#### **IDAPA 38 TITLE 05 CHAPTER 02**

#### **38.05.02 – RULES GOVERNING CONTESTED CASE HEARINGS ON BID APPEALS AT THE DIVISION OF PURCHASING**

##### **000. LEGAL AUTHORITY.**

The following rules are promulgated in accordance with Sections 67-5717(11) and 67-5732, Idaho Code. ( )

##### **001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited as IDAPA 38.05.02, “Rules Governing Contested Case Hearings on Bid Appeals at the Division of Purchasing.” ( )

**02. Scope.** Pursuant to Section 67-5733(1)(c)(iii), Idaho Code, the director may appoint a determinations officer to conduct a contested case hearing. These rules govern the contested case hearing process. ( )

##### **002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of these rules or to the documentation of compliance with these rules. Any such documents are available for public inspection and copying at the office of this agency. ( )

##### **003. CONTESTED CASE HEARINGS.**

The provisions found in Sections 031 through 043 of these rules shall govern contested case hearings. ( )

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**DEPARTMENT OF ADMINISTRATION**  
**Contested Case Hearings on Bid Appeals**

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**004. EXEMPTION FROM ATTORNEY GENERAL'S ADMINISTRATIVE PROCEDURE RULES FOR CONTESTED CASES.**

Pursuant to Section 67-5206(5), Idaho Code, except as provided in these rules, the procedures contained in Subchapter B, "Contested Cases," of the rules promulgated by the Attorney General as IDAPA 04.11.01, Sections 100 through 799, do not apply to contested case hearings. ( )

**005. REASONS FOR EXEMPTION FROM ATTORNEY GENERAL'S ADMINISTRATIVE PROCEDURE RULES.**

To prevent unnecessary delays and increased costs in the acquisition of needed property by state agencies, the rules of procedure in this chapter are adopted to promote the speedy resolution of bid appeals. ( )

**006. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference in this chapter. ( )

**007. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS.**

The Division of Purchasing is located at 5569 Kendall Street, Boise, Idaho, 83720-0075. The mailing address is P.O. Box 83720, Boise, Idaho 83720-0075. Office hours are 8 a.m. to 5 p.m., Monday through Friday. ( )

**008. PUBLIC RECORDS ACT COMPLIANCE.**

All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (Title 9, Chapter 3, Idaho Code). ( )

**009. (RESERVED).**

**010. DEFINITIONS.**

**01. Administrator.** The administrator of the Division of Purchasing. ( )

**02. Bidder.** The person or entity appealing in the contested case hearing. ( )

**03. Determinations Officer.** The person designated by the director to conduct a contested case hearing pursuant to Section 67-5733(1)(c)(iii), Idaho Code. ( )

**04. Director.** The director of the Department of Administration. ( )

**011. -- 030. (RESERVED).**

**031. FILING OF APPEAL.**

The notice of appeal must be filed in accordance with Section 67-5733(1)(c), Idaho Code. ( )

**032. NOTICE OF CONTESTED CASE HEARING.**

A notice of a contested case hearing shall be provided to the bidder, giving at least ten (10) days' advance notice of the contested case hearing. The contested case hearing will be held in Ada County, at such place as may be designated in the hearing notice. Upon concurrence of the parties and the determinations officer, contested case hearings may be conducted telephonically. ( )

## **STATE AFFAIRS COMMITTEE**

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**DEPARTMENT OF ADMINISTRATION**  
**Contested Case Hearings on Bid Appeals**

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**PENDING RULE (New Chapter)**

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### **033. BRIEFS AND MEMORANDA.**

Any party may make a request in writing to the determinations officer to file briefs, memoranda, proposed orders or statements of position and the determinations officer shall grant or deny such request as the determinations officer deems appropriate under the circumstances of a particular case. The determinations officer may request briefs, memoranda, proposed orders, or statements of position. ( )

### **034. RULES OF EVIDENCE.**

The determinations officer shall control the hearing and direct the order or presentation. A party shall be entitled to introduce evidence, examine and cross-examine witnesses, make arguments, and generally participate in the conduct of the proceedings. ( )

### **035. ADMISSION OF EVIDENCE.**

The admission of evidence at contested case hearings shall be governed by IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Sections 600 through 609. ( )

### **036. TESTIMONY.**

Testimony to be considered by the determinations officer in the hearing shall be by sworn testimony, except for matters noticed or entered by stipulation. ( )

### **037. DISCOVERY.**

Discovery may be conducted in the manner and to the extent allowed by the Idaho Rules of Civil Procedure only if first formally agreed to by the parties, or by order of the determinations officer after an application has been filed and a showing that discovery is required to clarify issues, identify witnesses, or preserve testimony. The order may limit the scope of discovery and the method of discovery as the determinations officer deems appropriate under the circumstances of a particular case. ( )

### **038. RECORDING AND TRANSCRIPTION.**

The hearing will be recorded by electrical device. A written transcript will be produced by the department upon request of either party. A bidder requesting such transcript shall be responsible for the cost of the transcript. Any party wishing to have the hearing recorded by a qualified court reporter must request such no less than five (5) business days in advance of the date set for hearing. The requesting party shall pay the cost of the reporter's fees and shall provide a copy to the determinations officer. The non-requesting party may pay for an additional copy for its own use. ( )

### **039. WITNESSES AND EVIDENCE.**

The determination officer, on his own or upon application of the bidder or the Department of Administration, may issue subpoenas for the attendance of witnesses and production of documents. ( )

### **040. FINDINGS OF FACT AND CONCLUSIONS OF LAW.**

Once the matter is fully submitted, the determinations officer shall issue findings of fact, conclusions of law and preliminary order. Copies shall be provided to all parties. ( )

## **STATE AFFAIRS COMMITTEE**

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**DEPARTMENT OF ADMINISTRATION**  
**Contested Case Hearings on Bid Appeals**

**Docket No. 38-0502-0701**  
**PENDING RULE (New Chapter)**

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**041. FINAL ORDER.**

Upon receipt of the determination officer's preliminary order, the director shall issue a final order affirming, modifying, or reversing the original selection determination. Copies shall be provided to all parties. ( )

**042. MOTIONS FOR RECONSIDERATION.**

Motions for reconsideration of the determination officer's preliminary order or of the Director's final order are not allowed. ( )

**043. APPEALS.**

Appeals from the final order shall be taken in accordance with Section 67-5270, Idaho Code. ( )

**044. -- 999. (RESERVED).**

## **STATE AFFAIRS COMMITTEE**

### **IDAPA 52 - IDAHO STATE LOTTERY COMMISSION**

#### **52.01.01 - RULES OF PRACTICE AND PROCEDURE OF THE IDAHO STATE LOTTERY COMMISSION**

#### **DOCKET NO. 52-0101-0701 (CHAPTER REPEAL)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** The proposed repeal of the existing Title 1, Chapter 1, of the Rules of the Idaho State Lottery is adopted and is now pending review by the 2008 Idaho State Legislature for final approval. The pending repeal will become final and effective at the conclusion of the legislative session, unless it is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending repeal is approved, amended or modified by concurrent resolution, the repeal will become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Lottery has adopted a pending rule repealing a chapter of its rules. The Lottery's rulemaking is authorized by Section 67-7408(1), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule repealing Title 1, Chapter 1, of the Lottery's rules, is being adopted as proposed. The complete text of the proposed rule and reasons for repealing this chapter were published in the Wednesday, September 5, 2007, Idaho Administrative Bulletin, Vol. 07-09, page 250.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no fiscal impact to the state's general fund as a result of this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jeffrey R. Anderson, Director: telephone (208)334-2600 / fax (208)334-3522 / e-mail: janderson@lottery.idaho.gov.

DATED this 23rd day of October, 2007.

Jeffrey R. Anderson, Director  
Idaho State Lottery  
1199 Shoreline Lane, Boise, ID

P.O. Box 6537, Boise, ID 83707-6737  
Tel: (208) 334-2600 / Fax: (208) 334-3522

#### ***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, notice is hereby given that the Idaho State Lottery has initiated proposed rulemaking procedures. This action is authorized

## STATE AFFAIRS COMMITTEE

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### IDAHO STATE LOTTERY Rules of Practice and Procedure

Docket No. 52-0101-0701  
PENDING RULE

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pursuant to Section 67-7408(1), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency not later than September 19, 2007. The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The current rules of the Idaho State Lottery that are adopted at IDAPA 52.01.01 combine two different topics - rules of practice and procedure and rules governing the operation of the Idaho State Lottery itself. The rules of practice and procedure in many instances paralleled but differed from the Idaho Rules of Administrative Procedure of the Attorney General, IDAPA 04.11.01, while the rules governing the Idaho State Lottery dealt with the substantive rules of the Lottery's games. The Idaho State Lottery has decided to separate these two subject matters currently combined into one chapter. This existing chapter 52.01.01 will now contain only rules of practice and procedure. Rules governing operation of the Lottery will be transferred to IDAPA 52.01.03. Further, experience has shown that it would be simpler to use the Idaho Rules of Administrative Procedure of the Attorney General rather than maintain the Lottery's somewhat different rules of procedure. Accordingly, the existing IDAPA 52.01.01 is repealed.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: No fees or charges are imposed or increased.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: **There will be no fiscal impact to the state's general fund from these rules.**

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted given the simple nature of the proposed rule change.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical question concerning the proposed rule, contact Steve Woodall, telephone 208-334-2600/fax 208.334.2610/e-mail: swoodall@lottery.idaho.gov. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Steve Woodall and must be delivered to the Idaho State Lottery on or before September 26, 2007.

DATED this 3rd day of August, 2007.

***IDAPA 52.01.01 IS BEING REPEALED IN ITS ENTIRETY.***



## **STATE AFFAIRS COMMITTEE**

### **IDAPA 52 - IDAHO STATE LOTTERY COMMISSION**

#### **52.01.01 - RULES OF PRACTICE AND PROCEDURE OF THE IDAHO STATE LOTTERY COMMISSION**

#### **DOCKET NO. 52-0101-0702 (CHAPTER REWRITE)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** The proposed rewrite of the existing Title 1, Chapter 1, of the Rules of the Idaho State Lottery is adopted and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rules will become final and effective at the conclusion of the legislative session, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved, amended or modified by concurrent resolution, the rules will become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Lottery has adopted pending rules. The Lottery's rulemaking is authorized by Section 67-7408(1), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule rewriting Title 1, Chapter 1, of the Lottery's rule, is being adopted as proposed. The complete text of the proposed rule and reasons for this rule change are published in the Wednesday, September 5, 2007, Idaho Administrative Bulletin, Vol. 07-09, pages 251 through 253.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the state's general fund as a result of this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jeffrey R. Anderson, Director: telephone (208) 334-2600 / fax (208) 334-3522 / e-mail: janderson@lottery.idaho.gov.

DATED this 23rd day of October, 2007.

Jeffrey R. Anderson, Director  
Idaho State Lottery  
1199 Shoreline Lane, Boise, ID  
P.O. Box 6537, Boise, ID 83707-6737  
Tel: (208) 334-2600 / Fax: (208) 334-3522

## STATE AFFAIRS COMMITTEE

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**IDAHO STATE LOTTERY**  
**Rules of Practice and Procedure**

**Docket No. 52-0101-0702**  
**PENDING RULE**

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### ***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, notice is hereby given that the Idaho State Lottery has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 67-7408(1), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency not later than September 19, 2007.

The hearing site will be accessible to persons with disabilities, Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The current rules of the Idaho State Lottery that are adopted at IDAPA 52.01.01 combine two different topics - rules of practice and procedure and rules governing the operation of the Idaho State Lottery itself. The rules of practice and procedure in many instances paralleled but differed from the Idaho Rules of Administrative Procedure, IDAPA 04.11.01, while the rules governing the Idaho State Lottery dealt with the substantive rules of the Lottery's games.

The Idaho State Lottery has decided to separate these two subject matters currently combined into one chapter. This existing chapter 52.01.01 will now contain only rules of practice and procedure. Rules governing operation of the Lottery will be transferred to IDAPA 52.01.03. Further, experience has shown that it would be simpler to use the Idaho Rules of Administrative Procedure rather than maintain the Lottery's somewhat different rules of procedure. Accordingly, the existing IDAPA chapter 52.01.01 is repealed and these new rules of practice and procedure adopt the Idaho Rule of Administrative Procedure to govern administrative procedure before the Idaho State Lottery.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: No fees or charges are imposed or increased.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There will be no fiscal impact to the state's general fund from these rules.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted given the simple nature of the proposed rule change.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical question concerning the proposed rule, contact Steve

## **STATE AFFAIRS COMMITTEE**

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### **IDAHO STATE LOTTERY Rules of Practice and Procedure**

**Docket No. 52-0101-0702  
PENDING RULE**

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Woodall, telephone 208-334-2600/fax 208.334.2610/e-mail: swoodall@lottery.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Steve Woodall and must be delivered to the Idaho State Lottery on or before September 26, 2007.

DATED this 3rd day of August, 2007.

### ***THE FOLLOWING IS THE TEXT OF THE PENDING RULE***

#### **IDAPA 52 TITLE 01 CHAPTER 01**

#### **52.01.01 - RULES OF PRACTICE AND PROCEDURE OF THE IDAHO STATE LOTTERY COMMISSION**

##### **000. LEGAL AUTHORITY (RULE 0).**

These rules are adopted under the general legal authority of Title 67, Chapter 74, Idaho Code, and the specific legal authority of Sections 67-7401, 67-7404, 67-7406, 67-7408, and 67-7411, Idaho Code, and under the general legal authority of Title 67, Chapter 77, Idaho Code, and the specific legal authority of sections, 67-7705, 67-7708, 67-7712, 67-7714, Idaho Code, and any other sections of these chapters referring to rules, rulemaking or contested cases. ( )

##### **001. TITLE AND SCOPE (RULE 1).**

**01. Title.** The title of these rules are 52.01.01, "Rules of Practice and Procedure of the Idaho State Lottery Commission." ( )

**02. Scope.** The scope of these rules is to govern all contested case proceedings before the Idaho State Lottery and all rulemaking before the Idaho State Lottery. ( )

##### **002. WRITTEN INTERPRETATIONS (RULE 2).**

All written interpretations of these rules are available for public inspection and copying at the offices of the Idaho State Lottery, 1199 Shoreline Lane Boise, Idaho. ( )

##### **003. ADMINISTRATIVE APPEALS (RULE 3).**

These rules provide the procedures for administrative appeals of contested cases before the Idaho State Lottery under Title 67, Chapter 77, Idaho Code. There are no contested cases under Title 67, Chapter 74, Idaho Code. ( )

## STATE AFFAIRS COMMITTEE

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### IDAHO STATE LOTTERY Rules of Practice and Procedure

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#### 004. INCORPORATION BY REFERENCE (RULE 4).

These rules incorporate by reference IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." ( )

#### 005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS (RULE 5).

**01. Street Address.** The Idaho State Lottery is located at 1199 Shoreline Lane Boise, Idaho 83702, which is the street address for purposes of in-person delivery of documents in contested cases or rulemaking or the address at which persons may in person request copies of documents in contested cases or rulemaking. ( )

**02. Mail Address.** The Idaho State Lottery's mailing address for purposes of filing documents by mail in contested cases or rulemaking is PO Box 6537, Boise, Idaho 83707-6537. ( )

**03. Office Hours.** The office hours of the Idaho State Lottery for purposes of filing documents in a contested case or a rulemaking are 8:00 a.m. through 5:00 p.m. ( )

**04. Contested Case Files.** Any documents intended to be part of the file in a contested case or a rulemaking must list the case caption or rulemaking docket caption on the front page and include the case number or the rulemaking docket number on the front page. Cover letters to filings in contested cases or rulemaking should be sent to the attention of the Director of the Idaho State Lottery. ( )

#### 006. PUBLIC RECORDS ACT COMPLIANCE (RULE 6).

These rules have been promulgated in accordance with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and are a public record. ( )

#### 007. DEFINITIONS (RULE 7).

IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," which are hereby incorporated by reference, govern all practice and procedure before the Lottery Commission in contested case proceedings and in rulemaking. As they pertain to this chapter of rules, the following terms used in IDAPA 04.11.01 shall mean: ( )

**01. Agency.** Whenever the term "agency" is used, that term shall mean the Idaho State Lottery. ( )

**02. Agency Head.** Whenever the term "agency head" is used, that term means the Lottery Commission if the term refers to the body with ultimate contested case or rulemaking authority. If the term "agency head" is used to refer to the officer in charge of day-to-day administrative authority for the agency, that term means the Director of the Idaho Lottery. ( )

#### 008. -- 999. (RESERVED).

## **STATE AFFAIRS COMMITTEE**

### **IDAPA 52 - IDAHO STATE LOTTERY COMMISSION**

#### **52.01.02 - GAMING RULES OF THE IDAHO STATE LOTTERY**

**DOCKET NO. 52-0102-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** The proposed amendments to Title 1, Chapter 2, of the Rules of the Idaho State Lottery are adopted and are now pending review by the 2008 Idaho State Legislature for final approval. The pending rule will become final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Lottery has adopted a pending rule. The Lottery's rulemaking is authorized by Section 67-7714, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule amending Title 1, Chapter 2, of the Lottery's Gaming Rules for bingo and raffles, is being adopted as proposed. The complete text of the proposed rule and reasons for this rule change are published in the Wednesday, September 5, 2007, Idaho Administrative Bulletin, Vol. 07-09, pages 254 through 270.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

**There is no fiscal impact on the state's general fund.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Jeffrey R. Anderson, Director, telephone (208) 334-2600/ fax (208) 334-3522/ e-mail: janderson@lottery.idaho.gov.

DATED this 23rd day of October, 2007.

Jeffrey R. Anderson, Director  
Idaho State Lottery  
1199 Shoreline Lane, Boise, ID  
P.O. Box 6537, Boise, ID 83707-6737  
Tel: (208) 334-2600  
Fax: (208) 334-3522

## STATE AFFAIRS COMMITTEE

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**IDAHO STATE LOTTERY COMMISSION**  
**Gaming Rules of the Idaho State Lottery**

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**Docket No. 52-0102-0701**  
**PENDING RULE**

### ***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, notice is hereby given that the Idaho State Lottery has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 67-7714, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency not later than September 19, 2007.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**The current gaming rules of the Idaho State Lottery that govern bingo and raffles have not been amended to incorporate the extensive changes to the governing statutes enacted in 2005 Idaho Session Law, chapter 356, as while other amendments made in 2003, 2005 and 2006. These rules are now updated to incorporate and be consistent with those statutory changes.**

**As the same time, the rules are also amended to clarify practices that have grown up over the years. For example, the first rule contained in these amendments, the definition of audit in Rule 10.01. is clarified to better explain what records are expected to be maintained and be subject to review in an audit.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: No fees or charges are imposed or increased.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

**There will be no fiscal impact to the state's general fund from these rules.**

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted. These rules were reviewed and recommended by the Bingo-Raffle Advisory Board created by Section 67-7704, Idaho Code, which serves many of the same purposes as a negotiated rulemaking--giving input to the persons most affected by the rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical question concerning the proposed rule, contact Steve Woodall, telephone 208-334-2600/fax 208.334.2610/e-mail: swoodall@lottery.idaho.gov.

## STATE AFFAIRS COMMITTEE

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### IDAHO STATE LOTTERY COMMISSION Gaming Rules of the Idaho State Lottery

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Docket No. 52-0102-0701  
PENDING RULE

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Steve Woodall and must be delivered to the Idaho State Lottery on or before September 26, 2007.

DATED this 3rd day of August, 2007.

### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

#### 010. DEFINITIONS (RULE 10).

As used in these rules, ~~the following words have the following definitions~~ each word defined in Section 010 has the meaning given here unless a different meaning is clearly required from context: (7-1-97)(\_\_\_\_)

**01. Audit.** The review of ~~any or all~~ documents or other records pertaining to ~~the operation~~ of bingo or raffles, including, but not limited to ledgers, bank statements, checks and deposit records, nightly logs ~~recording transactions~~, receipts, register tapes, computer records, contracts and leases, records showing use of gross revenues for charitable activities, and tax records, by representatives of the ~~Idaho State~~ Lottery, the Attorney General, other law enforcement agencies, or independent auditors. (7-1-97)(\_\_\_\_)

**02. Autodaubing Features or Autodaubing.** Electronic bingo card daubers, including software or equipment interfaced with ~~such, which~~ electronic bingo cards that automatically daub the numbers as called without requiring the player to manually input the number called, ~~automatically daubs the numbers as called.~~ (3-30-01)(\_\_\_\_)

**03. Bingo.** The traditional game of chance using a card with five (5) rows and five (5) columns containing numbers from a range of one (1) to seventy-five (75) and played for a prize or prizes determined before the game begins, as elaborated in Subsection 010.03, and other games authorized by Title 67, Chapter 77, and by these Rules, e.g., "U-Pick Em." (See Section 67-7702(1), Idaho Code); (7-1-97)(\_\_\_\_)

**a. Bingo Cards, Regular.** ~~The traditional game of chance played for a prize determined prior to the start of the game.~~ Regular Bingo includes games using cards (reusable or disposable) containing five (5) rows of and five (5) columns of squares, arranged in a five-by-five (5x5) grid; each square is imprinted with randomly placed numbers, from a range of one (1) through seventy-five (75), except for the center squares, which may be a free space, and a set of designators, similarly numbered, that are contained in a selection device. The letters "B-I-N-G-O" must also be imprinted on the card in order with one (1) letter above each of the five (5) columns (the letter "B" above the first column and so on). ~~Upon approval of the Bingo Raffle Advisory Board there may be other forms of Bingo games allowed, such as Blackouts, Bonanza, and "U Pick Em" games.~~ (3-30-01)(\_\_\_\_)

## STATE AFFAIRS COMMITTEE

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### IDAHO STATE LOTTERY COMMISSION Gaming Rules of the Idaho State Lottery

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**b.** Bingo Cards, Electronic, or Face. An electronic facsimile of a regular bingo card. See Section 67-7702(6), Idaho Code. ( )

**bc.** Play Method. Players who have paid consideration for the cards that they are holding compete for a prize or prize(s) by covering numbers on their cards when ~~similarly numbered~~ designators with the same number are randomly drawn and called. The balls or other designators in the selection device are numbered in the same manner as the possible numbers on the bingo cards, from one (1) through seventy-five (75). The winner is the first player to cover a predetermined arrangement of numbers on the players' cards, for example, any row, column or diagonal of the five (5) rows and (5) columns and two (2) diagonals of the bingo card. Upon approval of the Bingo-Raffle Advisory Board there may be other forms of bingo games allowed, such as but not limited to Blackouts, Bonanza, and "U-Pick Em" games. The game begins when the first number is called and ends when a player has covered the previously designated arrangement and declares a bingo ~~on the last number called.~~ The Each winning card ~~shall~~ must be independently verified by a floor worker and another player by calling back the winning combination of numbers in the ~~accepted pattern~~ predetermined arrangement or by entering the serial number printed on the bingo card into an electronic verification system that can verify whether a card is a winner. (7-1-97)( )

**ed.** Exclusions from Bingo. Bingo ~~shall~~ does not include "instant bingo," which is a game of chance played by the selection(s) of one (1) or more prepackaged cards, with the winner determined by the appearance of a preprinted winning designation on the card. (7-1-97)( )

**04. Bingo-Raffle Advisory Board or Board.** The board ~~consists of six (6) persons chosen by the Governor to make advisory recommendations regarding bingo and raffle operations and regulation in Idaho and to determine which Bingo games are allowable in Idaho.~~ See established and appointed according to Sections 67-7702(2), 67-7703, and 67-7704, Idaho Code. (3-30-01)( )

**05. Blackout.** A game of bingo where all numbers are covered on a bingo card. This game is also referred to as "coverall." (7-1-97)( )

**06. Bonanza.** A game of bingo that is played on a prefolded card. ~~Wherein~~ or on another kind of card on which the numbers are not revealed until the card is purchased and in which a designated number of balls are emitted from the machine in the usual manner and displayed. If there is no "Bingo" called on these numbers, the game may continue with one (1) additional ball emitted at a time until there is a winner. (7-1-97)( )

**07. Card Minding Machines.** ~~Individual computers that allow players to monitor multiple bingo cards through a centralized "caller" computer.~~ (7-1-97)

**087. Charitable Contribution Acknowledgement Report Form or CCARF.** A form, prepared by the Director, upon which the recipient of a donation for a charitable purpose ~~shall~~ must indicate the charitable purpose for which the donation will be used; the name, address, and phone number of the person receiving the donation; and acknowledgement that the recipient will provide any and all information necessary in order for the Director or his representatives to verify that the donation was used for a charitable purpose, as well as any other information needed by the Director to assure that the donation is used for a charitable purpose. See Section 67-7709(2),



## STATE AFFAIRS COMMITTEE

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### IDAHO STATE LOTTERY COMMISSION Gaming Rules of the Idaho State Lottery

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Idaho Code. (3-30-01)( )

**098. Charitable Organization.** Any organization ~~that meets the criteria established~~ defined as a “charitable organization” by Section 67-7702(3), Idaho Code. (7-1-97)( )

**109. Charitable Purpose.** ~~For A purpose of supporting a bona fide charitable, civic, religious, fraternal, patriotic, or veterans organization or as a non-profit volunteer fire department, or as a non-profit volunteer rescue squad, or as a non-profit volunteer educational booster group, non-profit youth organization, non-profit sports league organization, non-profit parent teacher organization or association, non-profit private and public schools to include but not be limited to organizations exempt from taxation under Sections 501(c)(3), (4), (6), (8), (10), (19) or 501(d) of the Internal Revenue Code of the United States of America~~ organization, as defined by Section 67-7702(3), Idaho Code. (3-30-01)( )

**140. Commission.** The Idaho State Lottery Commission ~~as defined in~~ established and appointed according to Sections 67-7404~~2~~, 67-7404(2) and 67-7405, Idaho Code. See Section 67-7702(4). (7-1-97)( )

**121. Concessions.** Food ~~items offered~~ and beverages or other incidental items (e.g., caps or tee-shirts) unrelated to gaming that are sold to players at bingo games. (7-1-97)( )

**132. Director.** The director of the Idaho State Lottery ~~See~~ appointed and confirmed according to Section 67-7407, Idaho Code. (7-1-97)( )

**143. Disposable Paper Bingo Card.** A non-reusable, paper bingo card. ~~Such cards must be manufactured with pre-printed serial numbers and may be assembled in multiple card sheet, single sheet, pad or packet form. A sequential series and serial number must be printed on each individual card.~~ (7-1-97)( )

**154. Distributor.** Any person who purchases or otherwise obtains ~~a completed piece of equipment~~ and/or supplies equipment for use in ~~authorized~~ conducting gaming activities, including but not limited to bingo or raffles, from any person or entity, and sells or otherwise furnishes such equipment and/or supplies to any person or entity who engages in gaming activity. (7-1-97)( )

**165. Duck Race.** A charitable raffle as defined in Section 67-7704~~2~~(5), Idaho Code. (7-1-97)( )

**16. Electronic Bingo Device.** An electronic device used to monitor bingo games as defined by Section 67-7702(7), Idaho Code. Electronic bingo devices may be used to monitor bingo cards (“mind cards”) only if they meet the requirements of Section 67-7702(7)(a), Idaho Code. No devices described in Section 67-7702(7)(b), Idaho Code, can be lawfully used in a bingo operation. ( )

**17. Electronic Gambling Devices.** Gaming or gambling devices electronically operated by inserting a coin or token and then pulling a handle or pushing a button to activate the game. Electronic gaming ~~D~~devices can generate points or payout slips for accumulated wins. (7-1-97)( )

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### IDAHO STATE LOTTERY COMMISSION Gaming Rules of the Idaho State Lottery

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**18. Gaming.** ~~Gaming means~~ Gambling as defined in Section 18-3801, Idaho Code, including gaming authorized by Chapters 74 and 77, Title 67, Idaho Code. (7-1-97)( )

**19. Gross Revenues from Bingo or Raffles.** All revenues collected for playing bingo or a raffle, excluding concessions. See Section 67-7702(8), Idaho Code. ( )

**a. For Bingo.** All moneys paid by players during a bingo game or session ~~for the~~ of playing of bingo, ~~or raffle and shall not~~ including fees for use of electronic bingo cards or electronic bingo devices, but excluding money paid for concessions. Gross revenues are calculated before any deductions for prizes or other expenses. ~~See Section 67-7702(6), Idaho Code. Gross revenues for raffle events (or other gaming) mean the monetary value that would be~~ ( )

**b. For Raffles and Other Gaming Authorized by Title 67, Chapter 77, Idaho Code.** All moneys or other value paid to or due to any operator of a raffle or other gaming authorized by Title 67, Chapter 77, Idaho Code, activity for any chance taken or other fees for participation in the raffle or other gaming activity. Gross revenues are calculated before any deductions for prizes or other expenses. (3-30-01)( )

**20. Hard Bingo Cards.** Reusable bingo cards with sliding windows or shutters to cover the numbers on the cards. Hard cards are legal in sessions with less than ten thousand dollars (\$10,000) of annual gross revenue or for special occasions. (7-1-97)( )

**21. Holiday Christmas Tree Fundraiser.** A charitable game played by persons bidding on decorated holiday trees, as defined by Section 67-7702(9), Idaho Code. ( )

**22. Host System.** The computer hardware, software and peripheral equipment used to generate or download electronic bingo cards and to monitor sales and other activities of a site system, as defined by Section 67-7702(10), Idaho Code. ( )

**223. Instant Bingo.** A Lottery game played by ~~the~~ use of premarked cards which, when opened, ~~are, by the premarking,~~ scratched or otherwise revealed, determined ~~to be~~ whether the cardholder is a winners without any competition among players ~~participation~~ "Instant Bingo" is not a game of "Bingo" as defined by these Rules. (3-30-01)( )

**224. License.** A permission issued by the director of the ~~Idaho State~~ Lottery ~~to:~~ to operate bingo games or raffles or to manufacture, sell, distribute, furnish or supply gaming machines, equipment or material. (7-1-97)( )

**25. Licensed Game Operator.** A person, ~~business, or organization that~~ who qualifies as a nonprofit or charitable organization who may operate ~~bingo games~~ or raffles; ~~or~~ and who is licensed pursuant to Section 67-7711, Idaho Code. (7-1-97)( )

**26. Suppliers Licensed Vendor.** ~~Vendors, distributors or manufacturers of gaming supplies~~ A person who manufactures, sells, distributes, furnishes or supplies gaming machines, equipment or material who is licensed pursuant to Section 67-7715, Idaho Code. (7-1-97)( )

## STATE AFFAIRS COMMITTEE

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### IDAHO STATE LOTTERY COMMISSION Gaming Rules of the Idaho State Lottery

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**27. Lottery.** The Idaho State Lottery created by Section 67-7402, Idaho Code, and, as context requires, the Lottery Commission and the Lottery's officers and employees. ( )

**238. Manufacturer.** Any person who fabricates or assembles, ~~from raw materials or subparts,~~ a completed piece of gaming equipment or pieces of gaming equipment, or supplies completed gaming equipment, or pieces of gaming equipment for use in ~~authorized~~ gaming activities, including but not limited to bingo and raffles, and who sells or otherwise furnishes the ~~same~~ completed gaming equipment or pieces of gaming equipment to any distributor, operator, or retail outlet. (7-1-97)( )

**249. Net Proceeds of a Charitable Raffle.** The ~~receipts~~ gross revenues of a charitable raffle less the cost of prizes awarded. ~~In the case of a duck race, n~~Net proceeds of a duck race mean ~~receipts~~ gross revenues less the cost of prizes awarded and the rental cost of the ducks used in the race (if there are rental costs). See Section 67-7710(43), Idaho Code. Net proceeds of a holiday Christmas tree fundraiser mean the gross revenues less the costs of procuring the tree(s) or other prizes. See Section 67-7710(3). Donated prizes are considered to have no cost and do not reduce ~~amount of~~ the receipts when calculating net proceeds. (7-1-97)( )

**2530. Nonprofit Organization.** An organization incorporated under Chapter 3, Title 30, Idaho Code, or an unincorporated association recognized under Chapter 7, Title 53, Idaho Code. See Section 67-7702(711), Idaho Code. (7-1-97)( )

**2631. Organization.** A charitable organization or a nonprofit organization. ~~See as defined in~~ Section 67-7702(812), Idaho Code. (7-1-97)( )

**32. Person.** All individuals, organizations, entities and governments or governmental units included with the definition of "person" in Section 67-7702(13), Idaho Code. ( )

**2733. Raffle.** An event in which prizes are won by random drawings or other selections of a ~~name or number of~~ ticket, duck or other means of identifying the one (1) or more persons purchasing chances. See Section 67-7702(914), Idaho Code. Duck races and holiday Christmas tree fundraisers are forms of raffles. See Sections 67-7702(5) and 67-7702(9), Idaho Code. (7-1-97)( )

**2834. Reusable Bingo Cards.** ~~Reusable or hard bingo cards constructed similar to the non-reusable paper cards, by utilizing~~ Bingo cards constructed out of a durable material that use sliding windows or shutters or chips to cover the numbers and that can be reused from one (1) game to another. (7-1-97)( )

**2935. Separate Bank Account.** A bank account established ~~strictly~~ for ~~gross revenues.~~ See purposes of complying with the accounting requirements of Section 67-7709(1), Idaho Code, regarding accounting for revenues and disbursements for bingo operations. All gross revenues received in connection with licensed bingo games must be placed in the separate bank account. Concessions and other moneys received (if any) from non-gaming revenues should not be deposited in the separate bank account. (3-30-01)( )

**306. Sessions.** A period of time not to exceed eight (8) hours in any one (1) day in which players are allowed to participate in bingo games operated by a charitable or nonprofit

## STATE AFFAIRS COMMITTEE

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### IDAHO STATE LOTTERY COMMISSION Gaming Rules of the Idaho State Lottery

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organization. See Sections 67-7702(15) and 67-7708, Idaho Code. (7-1-97)( )

**37. Site System.** Computer hardware, software and peripheral equipment used by a licensed bingo operator to provide electronic bingo cards, to monitor bingo cards, to provide receipts, and/or to generate reports, as defined in Section 67-7702(16), Idaho Code. ( )

**348. Special Committee.** Persons (including officers and directors, if so designated) listed on an organization's application for a license who ~~shall be~~ are designated to be responsible ~~to~~ for insuring that a bingo game or bingo session, conducted by that organization, ~~is~~ will be run according to the requirements of statute and of these rules. If no persons are designated as a special committee, the members of the governing body of the applicant will be held responsible for the operations of the bingo games and sessions or the operations of the raffle. See Section 67-7711(3), Idaho Code. (3-30-01)( )

**329. Special Permit.** A permit that can be obtained by an unlicensed charitable organization that ~~is not licensed but~~ qualifies the organization to operate an exempt bingo operation. This permit allows a qualified organization to operate bingo games at a state or county fair for the duration of the fair. See Section 67-7702(17), Idaho Code. (3-30-01)( )

**3340. Tracking.** The documentation of sales by sequentially numbered bingo paper ~~in~~ bingo games or numbered tickets in raffles. See Section 67-7709(3), Idaho Code. (7-1-97)( )

**341. U-Pick Ems.** A game where players select their own numbers on a two (2) part duplicated bingo card. One (1) copy is retained by the player and used as a bingo card. Numbers are called until there is a winner. The winner is determined by the first player to cover their numbers on a "U-Pick-Em" card. (7-1-97)( )

**3542. Vendor.** Any applicant, licensee, manufacturer, distributor, or supplier licensed or unlicensed that furnishes or supplies bingo or raffle equipment, disposable or non disposable cards and any and all related gaming equipment. (3-30-01)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 100. BINGO BY CHARITABLE OR NONPROFIT ORGANIZATIONS (RULE 100).

All organizations operating bingo games, whether licensed or unlicensed, must abide by these rules. It is unlawful to conduct bingo sessions or bingo games in violation of Chapter 77, Title 67, Idaho Code, or in violation of these rules, and persons doing so may be subject to administrative, civil or criminal penalties. See Section 67-7707, Idaho Code. Rules 100 through 105 apply to all bingo operators. Rules 106 through 109 apply to operators using paper bingo cards. Rules 110 through 112 apply to operators using electronic bingo machines, as defined in Rule 110. Rules 115 through 118 apply to all bingo operators. (7-1-97)( )

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### (BREAK IN CONTINUITY OF SECTIONS)

#### 106. TRACKING REQUIREMENTS IN GAMES USING PAPER BINGO CARDS (RULE 106).

**01. Bingo Paper -- for Whom Required.** All licensed organizations operating bingo sessions that use paper bingo cards and all ~~non-licensed~~ organizations ~~with an annual gross revenue from bingo exceeding ten thousand dollars (\$10,000)~~ exempt from licensing under Section 67-7713, Idaho Code, that use paper bingo cards must track their bingo sales ~~per~~ for each session by using sequentially numbered/colored bingo paper. Each such organization ~~shall~~ must keep a ledger of the numbers of all ~~such~~ bingo papers used. The non-reusable colored paper cards must ~~have~~ be manufactured with a pre-printed series and a pre-printed serial number on each card. These cards may be assembled in multiple card sheets, single sheets, or packets. A sequential series and serial number must be printed on each individual card. (~~3-30-01~~)(    )

**02. Tracking by Game for Bingo Paper.** The tracking ~~will~~ may vary according to games sold at each session (packets, specials, singles, six (6) ons, three (3) ons, etc.) and may be designated by game name or color of paper. (~~7-1-97~~)(    )

**03. Tracking by Bingo Paper Packet.** If sales are completed by packet, then those packets must not be separated ~~to be sold for sale~~ as singles. Individual games or packets sold must be recorded sequentially for effective tracking. The tracking records ~~need only~~ must be retained with permanent records; ~~Tracking records are not required to be submitted with the Annual Bingo Report form.~~ (~~7-1-97~~)(    )

**04. Late Players When Bingo Paper Used.** Packets of bingo paper sold to late players must have the previously played games sheets removed and voided. The tracking must account for sheets removed and voided. (~~7-1-97~~)(    )

**05. Designation of Bingo Paper Color for Games.** Each game is assigned a particular color of paper card. Other colors will not be accepted. (~~7-1-97~~)(    )

**06. Documentation for Bingo Paper.** All bingo paper must be tracked as either sold, damaged, donated, or omitted from the original distributor or manufacturer. Invoices from the distributor or manufacturer and other documentation of transactions involving bingo funds must be kept with the permanent records for that bingo operation. Operators may contact the Lottery Enforcement Division for clarification concerning proper documentation to track sold, damaged, donated, or omitted bingo paper. (~~7-1-97~~)(    )

#### 107. DUTIES OF BINGO CALLER AND EMPLOYEES OR VOLUNTEERS IN GAMES USING PAPER BINGO CARDS (RULE 107).

**01. Pre-Game Duties.** Before selecting or calling the first number in any game, the bingo caller must check the machine and balls for defects. This can be ~~accomplished~~ done by running all of the ~~numbered~~ balls through the machine and placing them in their assigned slots to determine that there is one (1) ball for each number and only one (1) ball for each number. The caller will draw numbers for the Bonanza, Progressive or Hot Ball games if used and verified by a

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player. The caller must announce the color of paper card assigned to each game, the pattern or arrangement of squares to be covered to win the game, and the prize amount. (7-1-97)( )

**02. Displaying Numbers During Play.** ~~After selecting a~~ Each time that a number is selected, the bingo caller ~~shall~~ must (7-1-97)

~~a. Display and Removal.~~ Display the ball or other designator in a receptacle ~~so as~~ to prevent it from being placed back into the selection pool. If electronic display boards are used the placement of the selected ball ~~shall~~ should activate the number or if not, the operator ~~shall~~ is required to manually activate each number on the board. (7-1-97)( )

**03. End of Game.** After ~~each~~ a winner has been verified as set forth in Rule 108, the caller ~~will~~ must ask ~~for~~ if there are additional winners, ~~if they exist. If none~~ After asking for and verifying whether there are additional winners, the game ~~will~~ must be declared ~~ended to be completed~~, and the ball machine ~~will~~ must be cleared for the next game. (7-1-97)( )

### **108. DETERMINING WINNERS WHEN A PLAYER USING A PAPER BINGO CARD CLAIMS TO BE A WINNER (RULE 108).**

**01. Winning Cards.** A ~~Winners~~ winning card ~~are determined when~~ is a card upon which the numbers drawn by the caller cover the ~~announced pattern~~ previously designated arrangement of ~~winning squares is covered on a players(s') card.~~ (7-1-97)( )

**02. Player's Responsibility.** It is the players responsibility to notify the game operator or caller that the player has a winning ~~bingo combination~~ card. The player(s) must yell "bingo" loud enough for the caller to hear ~~them~~ the player. (3-30-01)( )

**03. Game Stops to Verify Winner.** When a player ~~declares~~ announces a winning card, the game must stop for winner verification ~~should includes stopping the game~~ before the next number is selected. The game ~~shall~~ must be secured so that it can be continued if the declaration of a winning bingo ~~be invalid~~ card is incorrect. If a player mistakenly announces a winning card and the card is not a winner, the game proceeds until a winner is declared. (7-1-97)( )

**04. Verification of ~~Winner~~ Winning Card(s).** To verify a winning card or cards, a ~~game~~ bingo operator's employee or volunteer must call back the ~~winning~~ combination of numbers in the assigned pattern and the color of the paper card. The caller must verify the numbers called back. Electronic verifying devices may be used by entering the serial number of the winning card. A monitor must reveal the card and the winning pattern to verify its status as a valid bingo or an invalid bingo. ~~If it is invalid, the game proceeds until a winner is declared.~~ Once a winner is declared the caller must announce "one (1) good winner" or "two (2)" or more if it applies to the game. (7-1-97)( )

**05. Prizes for Multiple Winners.** If more than one (1) winner is declared, cash prizes must be divided equally, and merchandise prizes of equal value must be awarded. (7-1-97)( )

### **109. MISCELLANEOUS RULES FOR GAMES USING NON-ELECTRONIC BINGO CARDS (RULE 109).**

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**01. Hard Cards.** ~~Unlicensed~~ Charitable or nonprofit organizations with an annual gross bingo revenue of ten thousand dollars (\$10,000) or less may use hard cards. A licensed organization may request a special one (1) time use of hard cards for community fund-raising projects that it is sponsoring. No hard cards ~~shall~~ are allowed to be reserved for any players, with the exception of Braille cards. (3-30-01)( )

**02. Braille Cards.** Braille cards are allowed in any bingo game for use by individuals who need them. (3-30-01)

**03. Two Part Disposable Cards.** Two (2) part disposable cards may be used in "U-Pick-Em" games, if: (7-1-97)

**a.** Original and Duplicate Copies. The cards are printed on two (2) part, self-duplicating paper that provides for an original and duplicate copy; (7-1-97)

**b.** Operating Controls. Players mark their numbers on each card in a distinct, clear and legible manner before separation of the duplicate and original card, and operators establish and set forth in plain view house rules setting out any conditions by which an entry may be added, deleted or changed before separation, and changes are verified by a worker authorized by the bingo manager; and (7-1-97)

**c.** Retention and Play of Duplicate Copy. The player retains and plays the duplicate copy, and all winning cards and their duplicate copies are retained by the operator as part of the operators daily bingo records. (7-1-97)

**04. Card-Minding Devices.** Card-minding devices are prohibited unless they meet the requirement for allowable electronic bingo devices set forth in Section 67-7702(7)(a)(i) thorough 67-7702(7)(a)(iv). (3-30-01)( )

**05. Autodaubing Features.** Autodaubing features are prohibited. (3-30-01)

**06. Use of Nonreuseable Cards.** With the exception of Braille bingo cards authorized for use pursuant to Subsection 109.02, every organization that uses nonreusable paper bingo cards must use only nonreusable colored bingo paper or electronic bingo paper so that all sales can be tracked. Nonreuseable colored bingo paper must have a series and serial number on each card. After each bingo session, an organization using nonreuseable bingo paper must track its bingo sales for that session by recording the series and serial numbers of all paper sold, damaged, donated, used for promotion, or omitted by the manufacturer or distributor. See Section 67-7709(3), Idaho Code. ( )

### **110. BINGO OPERATIONS USING ELECTRONIC BINGO MACHINES (RULE 110).**

**01. Electronic Bingo Machines Defined.** Electronic bingo cards, electronic bingo devices, host systems, and/or site systems are individually and collectively called electronic bingo machines in these rules. ( )

**02. Use of Approved Hardware and Software.** All organizations that offer or use

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any electronic bingo machines during play must use hardware and/or software approved by the Commission, provided that printers used in connection with site systems may be obtained from any source. See Sections 67-7716 and 67-7719(1), Idaho Code. ( )

**03. List of Approved Hardware and Software.** The Director must maintain a list of approved hardware and software for electronic bingo machines. The Director must promptly update the list after any hardware or software is added or deleted from the list. ( )

**04. Requirements for Approved Site Systems.** All site systems licensed by the Commission must have the ability to track, either with or without input from the bingo game's operators, the number of games played that are connected to the site system, revenue from the games played that are connected to the site system, the number of winners who are connected to the site system, and the distribution of cash and merchandise prizes to winners connected to the site system for each session played using the site system. ( )

**05. Inspection and Testing.** All electronic bingo machines used by bingo game operators and all records that the electronic bingo machines generate must be available to be inspected and/or tested to determine whether the electronic bingo machines are properly functioning. Any agency or officer listed in Section 67-7709(5), Idaho Code, or their representative, is authorized to conduct an inspection and testing. See Section 67-7717(8) and – (9), Idaho Code. ( )

**06. Pre-Game Testing.** The Director or Lottery Security Division may by letter or other written communication prescribe appropriate pre-game testing procedures for electronic bingo machines as in their judgment are necessary for the particular hardware and software used. ( )

### **111. REQUIREMENTS FOR BINGO GAME OPERATIONS USING ELECTRONIC BINGO MACHINES (RULE 111).**

**01. Maximum Number of Faces.** Electronic bingo devices are hereby prohibited from monitoring more than fifty-four (54) faces (electronic bingo cards) per game. All electronic bingo devices are required to be restricted by their hardware or software so that they can monitor no more than fifty-four (54) faces per game. See Section 67-7717(1), Idaho Code. ( )

**02. Identification Number.** Every electronic bingo device that requires a site system to download electronic bingo cards to the device must comply with the requirements of Section 67-7717(2), Idaho Code, concerning identification numbers. ( )

**03. Erasing Numbers.** Every electronic bingo device must be programmed to erase electronic bingo cards and/or bingo card face numbers after a session has been completed, as required by Section 67-7717(3), Idaho Code. ( )

**04. Players Cannot Choose Numbers.** No electronic bingo device that allows bingo players to design their own bingo cards by choosing, rearranging, or placing numbers on a card is permitted. See Section 67-7717(4), Idaho Code. ( )

**05. Connections to Site System.** Site systems are prohibited from engaging in sales.



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voids, or reload transactions for an electronic bingo device unless the device is connected to and communicating with the site system. See Section 67-7717(5), Idaho Code. ( )

**06. Printouts.** Site systems must be electronically connected to an on-site printer that upon request is capable of printing a transaction log for each player that shows the device identification number and all bingo cards and face numbers loaded into the device. The site system must be able to record and print on-site a receipt showing the device identification number, the date of the bingo session, the number of electronic bingo cards purchased or loaded, and the total amount charged for each of the electronic bingo cards. This receipt must be given to the player on request or as required by any agency or officer listed in Section 67-7709(5), Idaho Code, or their representative. See Section 67-7717(6), Idaho Code. The site system must be connected to an on-site printer that can print the winning game combinations for the entire bingo session. This printout must be available on demand for the entire session. See Section 67-7717(7). ( )

**07. Malfunctioning Electronic Bingo Machines.** ( )

**a.** When Discovered by the Lottery or Other Officers. Whenever the Lottery or any agency or officer listed in Section 67-7709(5), Idaho Code, or their representative, detects or discovers a malfunction or other problem with an electronic bingo machine that could affect the security or integrity of a bingo game or of an electronic bingo machine, every bingo operator using such a malfunctioning electronic bingo machine must discontinue its use as directed by a representative of the Lottery or correct the malfunction or other problem as directed by a representative of the Lottery. Failure to take the directed action may result in confiscation or seizure of the electronic bingo machine that is malfunctioning or has other problems. See Section 67-7717(8), Idaho Code. ( )

**b.** When Discovered by Licensees or Others. Whenever a manufacturer, a distributor, a licensed bingo operation, a player, or any other person detects or discovers a malfunction or other problem with an electronic bingo machine that could affect the security or integrity of a bingo game or of an electronic bingo machine, every bingo operator using such a malfunctioning electronic bingo machine must discontinue the use of that electronic bingo machine and notify the Commission by telephone no later than the next working day of the action taken and the nature of the malfunction or other problem. The Commission may request further written explanation as necessary. See Section 67-7717(9), Idaho Code. For purposes of this paragraph, notification to an officer or employee of the Lottery Security Division will be considered notification to the Commission. ( )

**08. Receipts.** The cash register or the site system must provide a receipt for the sale of all bingo cards used in conjunction with an electronic bingo device. Additional paper bingo cards must be separately receipted. The cash register receipt and the player's receipt must identify and show the sale of disposable paper bingo cards separately from receipts for electronic bingo cards. See Section 67-7719(12), Idaho Code. ( )

**112. PLAY USING ELECTRONIC BINGO MACHINES (RULE 112).**

**01. No Player-Owned Devices.** Use of player-owned electronic bingo devices is prohibited. See Section 67-7719(2), Idaho Code. ( )

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**02. Provision of Devices.** Only the bingo game operator can provide electronic bingo devices. The operator may charge for the use of an electronic bingo device. If there is a charge for use of an electronic bingo device, the fee must be separately stated on the cash register and the bingo player's receipt and must be included in the gross revenues. See Section 67-7719(3) and (11), Idaho Code. ( )

**03. Use of Devices on Premises.** A player using an electronic bingo device must be on the premises during play to be eligible to play bingo or to win a prize. See Section 67-7719(3), Idaho Code. ( )

**04. Available Devices.** Electronic bingo devices must be made available on a first-come, first-served basis, and no device can be reserved for any player, except a device may be reserved for players with a disability (within the meaning of the Americans with Disabilities Act) if the disability would restrict or impair the player's ability to mark bingo cards. A bingo game operator may provide and reserve electronic bingo devices exclusively for persons with disabilities and forbid their use by all other persons. See Section 67-7719(5), Idaho Code. ( )

**05. One Device Per Player.** It is prohibited for any player to use more than one (1) electronic bingo device at a time. See Section 67-7719(6), Idaho Code. No electronic bingo device can be used to monitor hard bingo or shutter cards. See Section 67-7719(7). ( )

**06. Reserve Devices.** Every bingo game operator using electronic bingo devices must keep at least one electronic bingo device in reserve as a backup in case a device in use malfunctions. See Section 67-7719(4), Idaho Code. A reserve device is not considered an available device under paragraph 04 of this Rule. If a reserve device is put in use to replace a malfunctioning electronic bingo device, and if there are no more unused electronic bingo devices available to serve as a reserve device, the operator is not required to take an electronic bingo device from a player that is then using the device in order to maintain a reserve device, and the operator may continue to offer bingo games without a reserve device throughout the remainder of the session, unless one or more electronic bingo devices are turned in before the session ends, in which case a device that was turned in must then become the reserve device. ( )

**07. Loading Electronic Bingo Devices.** A bingo operator using an electronic bingo device is prohibited from downloading electronic bingo cards into an electronic bingo device before payment by the player. The player must be on the bingo operator's premises when the device is downloaded with electronic bingo cards. The device can only be downloaded with electronic bingo cards during the session. See Section 67-7719(10), Idaho Code. Players are prohibited from choosing or rejecting individual electronic bingo cards loaded into an electronic bingo device. See Section 67-7719(8), Idaho Code. ( )

**08. Additional Paper Cards.** When a player who has purchased fifty-four (54) bingo cards per game is using an electronic bingo device to monitor up to fifty-four (54) cards, a bingo operator may allow the player to purchase additional disposable paper bingo cards to play using a manual daubing or marking method. See Section 67-7719(9), Idaho Code. ( )

**09. Other Requirements.** The Director or Lottery Security Division may by letter or other written communication prescribe appropriate procedures for play and determination of

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winners and other matters generally covered by Rules 107 through 109 for paper bingo cards whenever it is necessary to do so in conjunction with the use or playing characteristics or other attributes of a given hardware or software. These letters are public records within the meaning of Sections 9-337 through 9-347, Idaho Code. ( )

### (BREAK IN CONTINUITY OF SECTIONS)

#### **1105. LIMITS ON BINGO OPERATION'S PRIZE PAYOUT RATIOS AND ADMINISTRATIVE EXPENSES (RULE 1105).**

**01. Applicability.** All organizations conducting bingo games, whether licensed or unlicensed, must adhere to the required limits of statute and of this rule in dedicating their gross revenues from bingo operations. These limits and/or percentages pertain to annual gross revenues during a twelve (12) month ~~period or~~ license year. See Section 67-7708, Idaho Code. (7-1-97)( )

**02. Maximum Payout Ratio.** A maximum payout ratio of prizes to annual gross revenues of sixty-five percent (65%) ~~of annual gross revenue~~ is allowed ~~as prize payouts~~. If agreed by the board of directors of the organization, the ratio of prizes to annual gross revenue may be increased to seventy percent (70%), but any increase in payout ratios above sixty-five percent (65%) must be made up by an equal reduction from the maximum percentage of fifteen percent (15%) that can be allocated to expenses under ~~Subsection 310.05~~ Section 67-7709(1)(d), Idaho Code. For example, if the board of directors of an organization decides to increase the maximum prize payout ratio by three percent (3%) from sixty-five percent (65%) to sixty-eight percent (68%), then the maximum amount of annual gross revenues that can be allocated to expenses must be reduced by three percent (3%) from fifteen percent (15%) to twelve percent (12%). See Section 67-7709(1)(d), Idaho Code. (7-1-97)( )

**03. Donated Merchandise.** Donated merchandise offered as prizes is not included in the prize amounts paid out when calculating the prize payout ratio. The organization conducting the bingo game must document the value of the donated items, describe the donated items, and list the donated items on the daily reports as prizes. (7-1-97)

**04. Donated Cash Funds Prohibited.** Donated cash may not be offered as prizes in bingo games nor deposited into the separate bingo account. (7-1-97)

#### **1146. PAYMENT OF EXPENSES, WINNINGS, AND CHARITABLE CONTRIBUTIONS (RULE 1146).**

All payments for expenses and donations for charitable purposes must be paid by check from the Separate Account and recorded in the bingo ledger. See Section 67-7709(1)(a)-(c), Idaho Code. (3-30-01)( )

#### **1127. MINIMUM CHARITABLE OR NONPROFIT DONATION (RULE 1127).**

A minimum of twenty percent (20%) of annual gross revenues of a bingo operation must be paid to a charitable or nonprofit organization(s) to be used for charitable purposes. See Section 67-

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7709(1)(d), Idaho Code. Organizations are permitted and encouraged to donate more than twenty percent (20%) of their gross revenues from bingo operations to charitable or nonprofit organization(s) to be used for charitable purposes. ~~(3-30-01)~~( )

#### **1138. MAXIMUM PRIZES (RULE 1138).**

By this rule the Commission exercises its authority over ~~the~~ maximum prizes are ~~defined~~ set forth in Section 67-7708, Idaho Code. ~~(7-1-97)~~( )

**01. Maximum Prize for One Game.** The maximum prize in cash and merchandise that may be offered for any one (1) bingo game is three thousand dollars (\$3,000). ( )

**02. Maximum Prizes for One Session.** The total of the maximum prizes in cash and merchandise that may be offered at any one (1) bingo session is twenty-five thousand dollars (\$25,000). ( )

~~114.~~—119. (RESERVED).

### (BREAK IN CONTINUITY OF SECTIONS)

#### **202. MAXIMUM PRIZES (RULE 202).**

The maximum aggregate value of cash prizes that may be offered or paid for any single raffle event, which is not a duck race or a holiday Christmas tree fundraiser, is one thousand dollars (\$1,000). There is no limit on the maximum value of merchandise that may be offered as raffle prizes if the merchandise is not redeemable for cash. ~~For duck races, there shall be~~ is no limit on the maximum amount of the value of the aggregate cash prizes for a duck race if the cash prize is underwritten by insurance, otherwise the maximum aggregate cash prize for a duck race is one thousand dollars (\$1,000). ~~There is no limit on the maximum value of merchandise that may be offered as a raffle prize so long as the merchandise is not redeemable for cash.~~ There is no limit on the maximum value of a tree that may be raffled in a holiday Christmas tree fundraiser. There is no limit on the maximum value for the merchandise used as prizes for a duck race or a holiday Christmas tree fundraiser if the merchandise is not redeemable for cash. See Section 67-7710(32), Idaho Code. ~~(3-30-01)~~( )

#### **203. REQUIREMENTS FOR DONATION TO CHARITY -- LIMITATION ON EXPENSES (RULE 203).**

At least ninety percent (90%) of the net proceeds from sales of raffle tickets or chances and duck races must be donated to a charitable or nonprofit organization to be used for a charitable purpose. (Net proceeds are defined in Subsection 010.249.) The name and address of the charitable or nonprofit organizations awarded these funds must be listed on the annual raffle report submitted to the Idaho Lottery. The annual raffle report ~~shall~~ must also include the charitable purpose for which the charitable donation was used by the charitable organization or non-profit organization. A maximum of ten percent (10%) of net proceeds is allowed for expenses. See Section 67-7710(3), Idaho Code. ~~(3-30-01)~~( )

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### (BREAK IN CONTINUITY OF SECTIONS)

#### 302. INFORMATION TO BE PROVIDED IN APPLICATION (RULE 302).

**01. Background Check of Applicants.** The application for an initial license and for a renewal license to operate a bingo game or to conduct a raffle will be reviewed and relevant background investigations will be conducted on all persons listed on the application as officers, directors or members of the special committee. The members of the governing board ~~shall~~ will be considered the de facto special committee if the governing board has not designated a special committee in its application. See Section 67-7711(3), Idaho Code. The signature from the organization's representative ~~(on the second page)~~ application gives the Lottery authority ~~to the Idaho State Lottery~~ to conduct investigations of members of the special committee. The persons listed on the application must be officers or directors of the organization or members of the special committee applying for a license. (7-1-97)(    )

**02. Proper Identification.** The application must list the name, address, date of birth, driver's license number and social security or tax identification number of the applicant, if applicable. If the applicant is a corporation, association or similar legal entity, the application must also list the full name, current home address and phone number, date of birth, social security number, driver's license number and state of issuance, of each listed officer, director or member of the special committee in order to conduct background investigations. See Section 67-7711(2)(a) and (b), Idaho Code. (7-1-97)(    )

**03. Charitable Organizations.** The application of a charitable organization must include a copy of the application for recognition of exemptions and a determination letter from the Internal Revenue Service and the State Tax Commission that indicates that the organization is a charitable organization and ~~stating that states~~ the section of the tax code under which the exemption is granted, except that if the organization is a state or local branch, lodge, post ~~or of~~ chapter or a national organization, a copy of the determination letter of the national organization ~~shall will~~ satisfy this requirement. See Section 67-7711(2)(c)(i), Idaho Code. (7-1-97)(    )

**04. Incorporated Nonprofit Organizations.** The application of an incorporated nonprofit organization must include a copy of the certificate of existence issued by the Secretary of State pursuant to Chapter 3, Title 30, Idaho Code, establishing the organization's good corporate standing in the state. See Section 67-7711(2)(c)(ii), Idaho Code. (7-1-97)(    )

**05. Unincorporated Nonprofit Associations.** The application of an unincorporated nonprofit association operating pursuant to Chapter 7, Title 53, Idaho Code, must include a statement meeting the requirements of Section 53-710, Idaho Code, for appointing an agent for service of process. See Section 67-7711(2)(c)(iii), Idaho Code. (7-1-97)

**06. Locations.** The application must list the location or locations at which the applicant will conduct bingo games or bingo sessions or drawings for raffles. See Section 67-7711(2)(d), Idaho Code. (7-1-97)

**07. License Year and Fiscal Year.** An ~~Ø~~organizations may apply for ~~the~~ a license to coincide with the organization's fiscal year. See Section 67-7711(5), Idaho Code. (7-1-97)(    )

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**08. Failure to Provide Information.** Failure to provide all ~~required~~ information ~~will~~ required for an application may result in a delay in ~~granting~~, considering an application or denial or dismissal of an application for a bingo/raffle license. See Section 67-7711(1), Idaho Code.  
(7-1-97)( )

### (BREAK IN CONTINUITY OF SECTIONS)

#### **305. ~~APPROVAL, DENIAL OR DISMISSAL OF APPLICATION FOR ACTION ON~~ LICENSES (RULE 305).**

**01. Applications for Licenses.** An application for a license will be approved, denied or dismissed in writing within fifteen (15) days of receipt of the written application, except as provided in Section 67-7712(2)(j), Idaho Code, when a criminal prosecution of an applicant is pending or an appeal from a criminal prosecution of an applicant is pending. The application will be denied if the applicant does not meet the requirements of statute and of these rules. If an application is not received fifteen (15) days in advance of a proposed event, it is possible that a license may not be granted before the event, and the event will not be allowed to proceed without a license. See Section 67-7711(1), Idaho Code. ( )

**02. Issuance of Licenses.** A license will be issued when an application for a license is approved. A license expires one (1) year after its issuance. See Section 67-7711(1), Idaho Code. ( )

**03. Notice of Intended Actions.** If ~~The Idaho State Lottery has~~ intends to deny an application for a license or the renewal of a license or intends to revoke, cancel, rescind or suspend a license, it will provide fifteen (15) days' ~~to approve, deny or dismiss an application for a license, provided that at the request of the applicant the Idaho State Lottery may defer decision for a longer time~~ written notice to the applicant or to the licensee of the Lottery's intent to deny, revoke, cancel, rescind or suspend the license and of the general basis for its intended action. If the applicant or licensee does not agree to the Lottery's intended action, the applicant or licensee must in writing request a hearing with the fifteen (15) day notice period. If a timely written request for a hearing is made, the hearing will be conducted in the same manner as a contested case hearing under Chapter 52, Title 67, Idaho Code. If a timely written request for a hearing is not made, the intended action is final and not subject to appeal. See Section 67-7712(23)(j), Idaho Code. ~~The application will be approved, denied or dismissed in writing. If an application is not received fifteen (15) days in advance of a proposed event, a license may not be granted and the event will not be allowed to proceed.~~  
(7-1-97)( )

#### **306. SUSPENSION OR REVOCATION OF LICENSE--CIVIL AND CRIMINAL PENALTIES (RULE 306).**

~~Any licensed organization found in violation of the bingo and raffle statutes or of these bingo/raffle rules or of any conditions of its~~ a license may ~~face~~ be grounds for administrative, civil or criminal actions. ~~This includes~~ but is not limited to suspension of operations, license revocation, penalties, and/or fines. See Section 67-7707, Idaho Code. See also Sections 7500

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through ~~7~~504 of this rule.

(~~7-1-97~~)( )

#### 307. EXEMPTION FROM LICENSING AND LICENSING FEES (RULE 307).

See Section 67-7713, Idaho Code, exempts charitable and non-profit organizations operating certain low-stakes bingo or raffle games from licensing.

(~~7-1-97~~)( )

**01. Low-Stakes Bingo.** A charitable or nonprofit organization conducting a bingo game does not need to obtain a license if ~~the~~ its gross annual bingo sales (gross revenues from bingo operations) are less than ten thousand dollars (\$10,000) ~~and/or if the aggregate total amount for prize(s) offered, in cash or merchandise for any one (1) session, is less than one thousand dollars (\$1,000).~~

(~~3-30-01~~)( )

**02. Low-Stakes Raffle.** A charitable or nonprofit organization does not need to obtain a license ~~or pay a license fee for a raffle, if the gross annual raffle sales are less than ten thousand dollars (\$10,000) and/or~~ to conduct a raffle the maximum aggregate value of merchandise awarded as prizes for the raffle does not exceed one thousand dollars (\$1,000).

(~~3-30-01~~)( )

**03. Exemption From Licensing Not Exemption From Rules.** Organizations exempt from licensing under this rule must still comply with applicable requirements of statute and bingo/raffle rules. This information is available by contacting the Idaho Lottery.

(7-1-97)

### (BREAK IN CONTINUITY OF SECTIONS)

#### SUBCHAPTER E -- VENDORS AND VENDORS' LICENSES AND FEES - APPROVED GAMING DEVICES

### (BREAK IN CONTINUITY OF SECTIONS)

#### 401. LICENSE FEES (RULE 401).

Each initial application for a vendor's license must be accompanied by a five hundred dollar (\$500) non-refundable annual license fee that ~~shall be~~ is due upon submission of the application. An application form approved by the ~~Idaho State~~ Lottery, completed with all required information, must be submitted along with the appropriate fee to the ~~Idaho State~~ Lottery Security Division. See Section 67-7715(3)-(~~45~~), Idaho Code.

(~~3-30-01~~)( )

#### 402. INFORMATION TO BE PROVIDED IN APPLICATION (RULE 402).

**01. Identification of Applicants.** The application for initial license and for renewal of a license ~~shall~~ must list:

( )

**a. Personal Data and Corporate Data.** ~~¶~~The name, address, date of birth, driver's

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license number and social security number of the applicant, and if the applicant is a corporation, proprietorship, association, partnership or other similar legal entity, the name, home address, date of birth, driver's license number and social security number of each of the officers of the corporation and their spouses, as well as the name and address of the directors and their spouses, or other persons similarly situated and the financial information required to complete the application form. See Section 67-7715(3)(a). (7-1-97)( )

~~02b.~~ Locations. The locations from which or persons with which the applicant will provide any gaming devices, equipment or material in this state or for use in this state. See Section 67-7715(3)(b). (7-1-97)( )

~~032.~~ ~~Financial Reports~~ **Incomplete Applications.** Financial reports submitted with the license application ~~shall~~ will be reviewed as part of the background investigation. All requested data must be included on the application to avoid any delay. The application may be dismissed if it is incomplete. (7-1-97)( )

#### **403. APPROVAL, DENIAL OR DISMISSAL OF APPLICATION FOR ISSUANCE OF LICENSE (RULE 403).**

The ~~Idaho State~~ Lottery has fifteen (15) days to approve, deny or dismiss an application for a vendor's license, provided that at the applicant's request ~~of the applicant~~ the ~~Idaho State~~ Lottery may defer decision for a longer time. The application will be approved, denied or dismissed in writing. The ~~Idaho State~~ Lottery will issue Vendor Licenses to ~~businesses or persons~~ successful applicants ~~who manufacture, furnish or sell gaming devices, equipment, or materials designed and permitted to be used in connection with charitable or nonprofit bingo or raffles.~~ See Section 67-7715, Idaho Code. (7-1-97)( )

#### **404. SUSPENSION OR REVOCATION OF LICENSE (RULE 404).**

Any licensed vendor ~~found~~ in violation of statute or of these vendors' rules or of any conditions of its license may face suspension or revocation of the its vendor's license ~~and activities taken pursuant to the vendors license or license revocation.~~ (7-1-97)( )

#### **405. -- 409. (RESERVED).**

#### **~~405~~10. GAMING DEVICES, EQUIPMENT OR MATERIALS (RULE ~~405~~10).**

Gaming devices, equipment, and materials include but are not limited to: (7-1-97)

**01. Number Selectors and Related Equipment.** Number selection machines, manual mixing drums, or computerized random selectors, site systems, host systems and/or other electronic bingo machines used to select numbers for bingo or raffles are gaming devices, equipment or materials. (7-1-97)( )

**02. Bingo Cards.** Numbered paper bingo cards and hard bingo cards ~~designed with five (5) columns of random numbers ranging between one (1) and seventy five (75) corresponding to the appropriate B-I-N-G-O columns~~ as described in Subsection 010.03.a., ~~This may also include~~ Bonanza cards, ~~and~~ "U-Pick-Ems," and electronic bingo cards, are gaming devices, equipment or materials. (7-1-97)( )

**03. Miscellaneous.** Daubers, raffle tickets, record keeping materials, electronic bingo



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devices and other items used in the operation of bingo and/or raffles are gaming devices, equipment or materials. (7-1-97)( )

#### **40611. PAPER BINGO CARD MANUFACTURERS STANDARDS (RULE 40611).**

Card manufacturers ~~shall~~ must follow these ~~recommended~~ standards for paper cards:

(7-1-97)( )

**01. Quality of Paper.** The paper ~~shall~~ must be of sufficient weight and quality to allow for clearly readable numbers and to prevent ink from spreading or bleeding through a packet ~~thereby~~ and obscuring other numbers or cards. (7-1-97)( )

**02. Random Assignment of Numbers.** Numbers printed on the card should ~~shall~~ must be randomly assigned. (7-1-97)( )

**03. Serial Numbers.** Each set of cards ~~shall~~ must be comprised of cards bearing the same serial number. No serial number ~~shall~~ may be duplicated by a manufacturer in a given year. (7-1-97)( )

**04. Packet Assembly.** Cards assembled in books or packets ~~shall~~ must be glued, not stapled. (7-1-97)( )

**05. Labeling.** A label ~~shall~~ must be placed on the exterior of each carton of bingo paper listing the type of product, number of packets or loose sheets, serial numbers, per (series) numbers, number of cases, cut of paper, and color of paper. (7-1-97)( )

**06. Packing Slips.** A packing slip inside each case ~~shall~~ must list the same information as listed on the label. (7-1-97)( )

#### **40712. NUMBER SELECTORS (RULE 40712).**

All number selectors for bingo operations must be approved by the Lottery Commission after review and advice by the Bingo-Raffle Advisory Board. Electronic random selectors must interact with players. Auto daubing systems for paper bingo cards are prohibited. (3-30-01)( )

#### **413. DISTRIBUTION AND USE OF ELECTRONIC BINGO MACHINES (RULE 413).**

**01. Approved Sources.** A licensed distributor of electronic bingo machines must purchase, rent, lease or otherwise provide electronic bingo machines only from a licensed manufacturer and must purchase, lease, rent, or other provide only electronic bingo machines that have been approved by the Lottery Commission. See Section 67-7718(1), Idaho Code. ( )

**02. Approved Users.** A licensed distributor of electronic bingo machines is permitted to sell, rent, lease or otherwise provide electronic bingo machines only to licensed bingo operators. See Section 67-7718(2), Idaho Code. ( )

**03. Initial Use.** The licensed distributor of electronic bingo machines must notify the Commission in writing of the sale, rental, lease, provision and/or installation of any electronic bingo machines before a licensed bingo operator's first use of the machines. See Section 67-7718(3), Idaho Code. The notice must include: ( )

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**a.** Licensed Operator. The complete name and address of the licensed bingo operator and their license number. ( )

**b.** Equipment Provided. The type of equipment and the serial numbers of equipment that was sold, rented, leased, provided or installed. ( )

**c.** Start-Up Date. The expected date upon which the licensed bingo operator will begin to use the equipment. ( )

**d.** Agreement. A copy of any and all agreements or contracts between the licensed distributor and the licensed bingo operator regarding use of the equipment. ( )

**04. Installation, Maintenance, Service and Repair.** The licensed distributor must be the initial contact for installation, service, maintenance and/or repair of electronic bingo machines and for ordering electronic bingo cards. The distributor may enlist the manufacturer's assistance for installation, service, maintenance and/or repair of electronic bingo machines. With the Commission's approval, a licensed manufacturer may authorize or subcontract with others for service, repair or maintenance of electronic bingo machines, but the licensed manufacturer retains ultimate responsibility and liability for service, maintenance and repair. See Section 67-7718(4), Idaho Code. ( )

**05. Invoices and Payments.** The licensed distributor of electronic bingo machines must be the person who invoices for and collects payments for a licensed bingo operator's use of electronic bingo machines. The manufacturer may generate the invoice. All payments must be to the distributor and not the manufacturer. The invoice must contain the licensed distributor's name, complete address and license number of the licensed bingo operator. See Section 67-7718(5), Idaho Code. ( )

**06. Transportation of Electronic Bingo Devices.** A licensed distributor may transport electronic bingo devices from one (1) location to another for use by one (1) or more licensed bingo operator(s) after the distributor has notified the Commission in writing of its schedule for rotating the electronic bingo devices from one (1) location to another. The notification must list the locations at which the devices will be used and must name the licensed bingo operators that will be using the devices at each location. See Section 67-7718(6), Idaho Code. ( )

**07. Site Systems and Transportation of Site Systems.** Each licensed bingo operator that uses a site system must have its own site system. A licensed bingo operator that uses a site system cannot transport its site system from one (1) location to another or allow another bingo operator to use its site system without prior written approval from the Commission. See Section 67-7718(6), Idaho Code. ( )

**~~408~~14. -- 499. (RESERVED).**

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### SUBCHAPTER F -- SUSPENSION, REVOCATION, OR DENIAL OF A LICENSE

#### 500. SUSPENSION, REVOCATION OR DENIAL OF LICENSE (RULE 500).

Any ~~person, business, vendor, or organization~~ licensee or applicant for a license found by a court of competent jurisdiction or by the Lottery pursuant to the procedures of section 67-7712, Idaho Code, to be in violation of any statutes or rules governing ~~the~~ operating, supplying of equipment for, participating in, or establishing of ~~charitable or nonprofit~~ gaming in the State of Idaho may be subject to suspension, revocation or denial of its license. See Section 67-7712 and 67-7715, Idaho Code. (7-1-97)(\_\_\_\_)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 502. COMPLAINT AGAINST AND INVESTIGATION OF LICENSEES (RULE 502).

The ~~State~~ Lottery may, upon its own motion, or upon a written verified complaint of any other person, investigate the operation of any gaming purportedly authorized by Chapter 77, Title 67, Idaho Code, or by these rules, whether the gaming is conducted by a licensed or an exempt operation, and whether gaming equipment or supplies comply with the requirements of Chapter 77, Title 67, Idaho. If the ~~State~~ Lottery has reasonable cause to believe that any gaming described in Chapter 77, Title 67, Idaho Code, or in these rules, violates the provisions of the Idaho Code or of these rules, in its discretion it may ~~in its discretion~~ under the procedures set forth in Section 67-7712(3), Idaho Code, and as provided by these rules propose to revoke, cancel, rescind or suspend any license for a period not to exceed one (1) year, or ~~it may~~ refuse to grant a renewal of the license, or ~~it may~~ take other action as may be appropriate under Idaho Code or these rules. See Section 67-7712(3), Idaho Code. (7-1-97)(\_\_\_\_)

## **STATE AFFAIRS COMMITTEE**

### **IDAPA 54 - OFFICE OF THE STATE TREASURER**

#### **54.02.01 - RULES GOVERNING THE COLLEGE SAVINGS PROGRAM**

**DOCKET NO. 54-0201-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-5402(1), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 434 through 438.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Liza Carberry, Investment Manager, at (208) 332-2997.

DATED this 6th day of November, 2007.

Liza Carberry  
Investment Manager  
College Savings Program  
Office of the State Treasurer  
304 N. 8th St., Rm. 208  
P. O. Box 83720  
Boise, Idaho 83720-0091  
(208) 332-2997 phone  
(208) 332-2961 fax

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**OFFICE OF THE STATE TREASURER**  
**Rules Governing the College Savings Program**

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**PENDING RULE**

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### ***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-5402(1), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**The current rules contain contractual terms and have complicated the transition to a new program manager. The rules have been revised to contain only those items required to be in rule by Title 33, Chapter 54, Idaho Code. All other program matters are addressed by the contract between participants and the program.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the items retained in the rules are required by Title 33, Chapter 54, Idaho Code.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Liza Carberry, Investment Manager, at (208) 332-2997.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 8th day of August, 2007.

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### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

#### 000. LEGAL AUTHORITY.

~~In accordance with~~ Section 33-5402(1), Idaho Code, authorizes the State College Savings Program Board ~~shall make, adopt, and publish rules pursuant to~~ interpret Title 33, Chapter 54, Idaho Code, in rule as may be necessary or appropriate to carry out the provisions and purposes of the College Savings Program. (3-15-02)(\_\_\_\_)

#### 001. TITLE AND SCOPE.

**01. Title.** These rules shall be cited in full as IDAPA 54.02.01, "Rules Governing the College Savings Program." (3-15-02)

**02. Scope.** These rules ~~specify~~ interpret Title 33, Chapter 54, Idaho Code, and prescribe the conditions and standards ~~under which for~~ the Program ~~shall required to be implemented~~ specified in rule under the provisions of Title 33, Chapter 54, Idaho Code. (3-15-02)(\_\_\_\_)

#### 002. WRITTEN INTERPRETATIONS.

In accordance with Section 33-5402(5), Idaho Code, the State College Savings Program Board may issue written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. (3-15-02)(\_\_\_\_)

#### 003. ADMINISTRATIVE APPEALS.

~~The provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," shall govern all contested cases filed pursuant to the provisions of Title 67, Chapter 52, Idaho Code.~~ This chapter does not provide for appeal of the requirements for deposits to and withdrawals from the Program. Disputes under the Program shall be governed by the terms of the Program Documents. (3-15-02)(\_\_\_\_)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 005. OFFICE -- ~~OFFICE HOURS~~ -- MAILING ADDRESS ~~AND STREET ADDRESS~~ -- TELEPHONE AND FACSIMILE NUMBERS.

~~The office of the Program is located in the State Capitol Building, 700 West Jefferson, Room 102, Boise, Idaho.~~ The mailing address of the Program is, C/O Office of the State Treasurer, P. O. Box 83720, Boise, Idaho 83720-0091. The telephone number of the Program is (208) 334-3200. The Program's facsimile number is (208) 332-2960. (3-15-02)(\_\_\_\_)

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### (BREAK IN CONTINUITY OF SECTIONS)

**~~007. FILING OF DOCUMENTS.~~**

~~All filings for rulemaking or contested cases must be filed with the Board. Whenever documents are filed by facsimile transmission, originals shall be deposited in the mail the same day or hand delivered the following business day to the Board.~~ (3-15-02)

**0087. -- 009. (RESERVED).**

**010. DEFINITIONS.**

Except where supplemented by the definitions in Section 010 of these rules, the definitions in Section 33-5401, Idaho Code, shall apply to terms used in these rules. ( )

**01. ~~Act.~~ The College Savings Program, Title 33, Chapter 54, Idaho Code. Account Balance Limit on Contributions.** The maximum total balance amount for all accounts established under the Program for the benefit of the same designated beneficiary as established by the State College Savings Program Board from time to time and set forth in the Program Documents, but in no event more than the amount permitted under 26 U.S.C. Section 529. (3-15-02)( )

**~~02. Account.~~** An individual trust account or savings account established as prescribed in Title 33, Chapter 54, Idaho Code. (3-15-02)

**~~032. Account Owner.~~** The ~~Person~~ individual, trust, estate, partnership, association, or corporation identified as the Account Owner in the Program's ~~participation agreement Documents.~~ (5-3-03)( )

**~~04. Beneficiary or Designated Beneficiary.~~** Except as provided in Section 33-5404, Idaho Code, with respect to an Account, the Person designated at the time the Account is opened as the Person whose higher education expenses are expected to be paid from the Account or, if this Beneficiary is replaced in accordance with Section 33-5404, Idaho Code, the replacement Beneficiary. (5-3-03)

**~~05. Board.~~** The State College Savings Program Board created by Section 33-5402, Idaho Code. (3-15-02)

**~~06. Cash.~~** Cash shall include checks (as limited in this section), payroll deductions, automatic contribution plans, electronic funds transfers, and transfers from another Qualified Tuition Program. Cash does not include property. Contributions by check must be drawn on a banking institution located in the United States in U.S. dollars. Personal checks, bank drafts, teller's checks, and checks issued by a financial institution or brokerage firm payable to the Account Owner and endorsed over to the Program by the Account Owner are permitted. Third-party personal checks up to ten thousand dollars (\$10,000) are also permitted. Money orders, cashier's checks, traveler's checks, starter checks, and credit card convenience checks are not permitted, nor are third-party personal checks exceeding ten thousand dollars (\$10,000). (4-11-06)

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~~07. **Contingent Account Owner.** The Person designated by the Account Owner, pursuant to Subsection 021.02, to become the owner of the Account upon the death of the Account Owner.~~ (3-15-02)

~~08. **Contribution.** Cash deposited into an Account established under the Act for the benefit of a Designated Beneficiary.~~ (3-15-02)

~~093. **Earnings.** The total Account balance on a particular date minus the Contributions in deposits to the Account as of that date.~~ (3-15-02)( )

~~10. **Member of the Family.** Shall have the meaning as provided in 26 U.S.C. Section 529.~~ (3-15-02)

~~11. **Person or Persons.** An individual, a trust, an estate, a partnership, an association or a corporation.~~ (3-15-02)

~~1204. **Program.** The College Savings Program and the Idaho College Savings Trust established under Title 33, Chapter 54, Idaho Code.~~ (3-15-02)( )

~~05. **Program Documents.** Written documents governing the agreement between the Account Owner and the Program, including the following: the written description of terms, policies, and procedures applicable to the Program; the Program application signed by the Account Owner; the participation agreement signed by the Account Owner; and, any form provided by the Program and signed by the Account Owner.~~ ( )

~~13. **Program Manager.** The financial institution selected by the Board pursuant to the provisions of Section 33-5403, Idaho Code, to act as manager of the Program.~~ (3-15-02)

~~14. **Qualified Higher Education Expense.** Shall have the meaning as provided in Section 33-5401(10), Idaho Code.~~ (5-3-03)

~~15. **Qualified Tuition Programs.** Shall have the meaning as provided in 26 U.S.C. Section 529.~~ (5-3-03)

~~16. **Qualified Withdrawal.** Shall have the meaning as provided in Section 33-5401(11), Idaho Code.~~ (5-3-03)

~~1706. **Rollover Distribution.** Shall have the meaning set forth in 26 U.S.C. Section 529(c)(3)(C)(i).~~ (5-3-03)

~~011. **UNIFORM GIFT TO MINORS ACT.**  
Any action taken by an Account Owner with respect to an Account shall comply with any applicable laws governing gifts or transfers to minors.~~ (5-3-03)

~~012.—019. (RESERVED).~~

~~020. **CHANGE OF BENEFICIARY.**~~



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~~01. **Change of Beneficiary Form.** An Account Owner may change the Beneficiary designated for the Account at any time by submitting a completed change of Beneficiary form to the Program Manager. (3-15-02)~~

~~02. **Change of Beneficiary Through Rollover Distribution.** A change of Beneficiary may also be accomplished by means of a Rollover Distribution. (3-15-02)~~

### ~~021. **CHANGE OF ACCOUNT OWNERSHIP.**~~

~~01. **Transfer of Ownership.** An Account Owner may transfer ownership of an Account to another eligible Account Owner at any time. The change of ownership shall be effective if the transfer: (3-15-02)~~

~~a. Is irrevocable; (3-15-02)~~

~~b. Transfers all ownership, reversionary rights, powers of appointment, and powers to direct the withdrawal of funds; and (3-15-02)~~

~~c. Is submitted to the Program Manager in writing. (3-15-02)~~

~~02. **Contingent Account Owner.** An Account Owner may designate a contingent Account Owner to become the owner of the Account automatically upon the death of the Account Owner by submitting a written request to the Program Manager. The contingent Account Owner designation may be revoked by the Account Owner at any time by submitting to the Program Manager another written request that either designates a new contingent Account Owner or revokes all previous designation(s) of a contingent Account Owner. Upon the death of the Account Owner, the successor Account Owner shall provide: (5-3-03)~~

~~a. A certified copy of a death certificate sufficiently identifying the deceased by name and Social Security Number, or such other proof of death as is recognized under applicable law and is acceptable to the Program Manager; and (3-15-02)~~

~~b. A participation agreement signed by the successor Account Owner. (3-15-02)~~

~~03. **Court Order.** A change in an Account Owner may be effected by submitting to the Program Manager a written request that is not signed by the Account Owner of record if the request for change of Account ownership is accompanied by a court order directing the change of ownership or by an affidavit or declaration that is recognized under applicable law to require the transfer of ownership upon death without a court order. The Program Manager shall not implement a change in ownership (other than a change in ownership described in Subsection 021.02 of these rules) without first receiving a written request signed by the Account Owner of record, a court order, or an affidavit or declaration as herein described. Upon acceptance by the Program Manager of a request for change of Account ownership, the successor Account Owner must submit a completed participation agreement to the Program Manager. (5-3-03)~~

~~02211. -- 029. (RESERVED).~~

030. WITHDRAWALS.

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**01. Minimum Deposit Period.** ~~Request For Withdrawal. Contributions must be~~ Account Owners may request withdrawal of all or part of the balance in an account if the amount requested has been on deposit in ~~an~~ the Account ~~a minimum of for~~ ten (10) days ~~before being withdrawn or longer. Following the request of an Account Owner for a withdrawal of all or part of the balance from an Account, payment shall be made not later than seven (7) days after the date on which a determination is made by the Program Manager, that a withdrawal request should be effected.~~ (5-3-03)(    )

**02. Determination of Qualified and Non-Qualified Withdrawals.** The Account Owner shall be responsible for satisfying requirements of the United States Internal Revenue Service and the Idaho Tax Commission concerning proof that a withdrawal is a qualified withdrawal. (      )

**031. -- 039. (RESERVED).**

#### **040. ACCOUNT BALANCE LIMIT ON CONTRIBUTIONS.**

That portion of a ~~Contribution for any Designated Beneficiary~~ deposit to an account that causes the total balance of the Account, together with other Accounts established under the Program for the benefit of the same ~~designated B~~beneficiary, to exceed the ~~maximum amount established by the Board from time to time (the "Account Balance Limit on Contributions"), but in no event more than the amount permitted under 26 U.S.C. Section 529,~~ shall be rejected. Accounts that have reached the Account Balance Limit on Contributions may continue to accrue ~~e~~Earnings, and no withdrawal or Rollover Distribution will be required as the result of such accrual. In determining an Account's balance for purposes of the Account Balance Limit on Contributions, only balances in Accounts established under the Program shall be included. (5-3-03)(    )

#### **041. ROLLOVER DISTRIBUTIONS.**

**01. Rollover Distribution from Another Qualified State Tuition Program.** ~~An Account Owner may transfer funds at any time from another Qualified Tuition Program to an Account established under the Act, either owned by the same or a different Account Owner, by submitting a written request to the Program Manager. The rollover of funds from the other Qualified Tuition Program shall be effective provided that:~~ (5-3-03)

**a.** ~~The funds are transferred to an Account for a new Beneficiary who is a Member of the Family of the Beneficiary of the Account in the other Qualified Tuition Program or the funds are transferred to an Account for the current Beneficiary (and such a transfer has not been made for the current Beneficiary within the preceding twelve (12) months); and~~ (5-3-03)

**b.** ~~The transfer of funds does not cause the aggregate amount of contributions held for the new Beneficiary to exceed the Account Balance Limit on Contributions applicable to that Beneficiary.~~ (3-15-02)

**02. Transfer of Account Funds as Rollover Distribution.** ~~An Account Owner may transfer funds from an Account established under the Act to another Account established under the Act, or an account established under a Qualified Tuition Program in another state, either owned by the same or a different Account Owner, at any time by submitting a written request to~~

## STATE AFFAIRS COMMITTEE

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~~the Program Manager. The transfer of Account funds shall be effective provided that:~~ (5-3-03)

~~a. The funds are transferred to an Account for a new Beneficiary who is a Member of the Family of the Beneficiary of the Account from which the funds are being transferred or the funds are transferred to an account for the current Beneficiary (and such a transfer has not been made for the current Beneficiary within the preceding twelve (12) months); and~~ (5-3-03)

~~b. The transfer of funds does not cause the aggregate amount of contributions held for the new Beneficiary to exceed the Account Balance Limit on Contributions applicable to that Beneficiary.~~ (3-15-02)

~~03. **Rollover of Account Funds Methods.** A rollover of Account funds from or to another Qualified Tuition Program or within this Program shall be effected through a direct transfer of funds to an Account or as a deposit of the funds into an Account established under a Qualified Tuition Program within sixty (60) days of withdrawal of the funds from the other Qualified Tuition Program.~~ (5-3-03)

~~04. **Execution of New Participation Agreement.** Any Rollover Distribution that is intended to transfer funds to a new Account not yet established under the Act shall not be effective until the Account Owner who is to receive the transferred funds has submitted a completed participation agreement for the new Account and the Account has been established.~~ (3-15-02)

0421. -- 999. (RESERVED).